



AGENDA
FRANKLIN COUNTY BOARD OF SUPERVISORS
TUESDAY, DECEMBER 15, 2015

- 1:30 P.M. Call To Order, Chairman Cline Brubaker
- 1:31 Invocation, Supervisor Bobby Thompson
- 1:32 Pledge of Allegiance, Supervisor C. B. Reynolds
- 1:33 Public Comment
- Oscar Pagans - Industrial Park - Sink Farm
 - Vandel Muse - Diamond Avenue Extension & Highland Hall
 - Ian Reilly - FOIA/Transparency - Mountain Valley Pipeline
 - Carolyn Reilly -Permanent Easement Agreements
- 1:45 GFOA Budget Document Award Recognition **(See Attachment #7)**
- 1:43 CONSENT AGENDA (*REQUIRES ACTION*)
- REF: 1. Approval of Accounts Payable Listing, Appropriations, and Minutes for November 17, December 2 & 3, 2015
2. Approval of CEDS Document **(See Attachment #5)**
3. Request for Public Hearing to Amend the Adopted FY15-16 Budget **(See Attachment #6)**
4. Board Organizational Meeting/*Monday, January 4, 2016 @ 4:00 P.M.*
5. Bedford Passenger Rail Station **(See Attachment #8)**
6. Public, Educational & Government (PEG) Access Performance Agreement **(See Attachment #9)**
7. Official 911 & Mailing Address Approval Form **(See Attachment #11)**
- 1:45 Vincent Copenhaver, Director of Finance
- REF: 1. Monthly Finance Report
2. School System Request for Five-Year Capital Improvement Plan Budget Transfer **(See Attachment #1)**

- 2:00 Steven Sandy, Director, Planning & Community Development
REF: 1. Discussion of Franklin County's Intention to Intervene with the FERC in the Mountain Valley Pipeline Proceedings. **(See Attachment #10)**
- 2:10 David Rose, Davenport & Company
REF: 1. County's Financial Update
- 2:40 Brent Robertson, County Administrator
REF: 1. Transient Occupancy Tax Discussion **(See Attachment #12)**
2. Other Matters
- 2:50 Other Matters by Supervisors
- 3:00 Request for Closed Meeting in Accordance with 2.2-3711, a-1, Personnel, a-3, Acquisition of Land, of the Code of Virginia, as Amended.

Certification of Closed Meeting in Accordance with 2.2-3712 (d), of the Code of Virginia, as Amended.

APPOINTMENTS:

(See Attachment #2)

Recess for Dinner

6:00 Call To Order, Chairman Cline Brubaker

6:01 Recess for Previously Advertised Public Hearings as Follows:

PUBLIC NOTICE

In accordance with the provisions of Section 15.2-1800 of the Code of Virginia, as amended, notice is hereby given to all interested parties that the Franklin County Board of Supervisors will hold a public hearing at approximately **6:00 P.M., on Tuesday, December 15, 2015**, in the Board of Supervisor's Meeting Room located in the Franklin County Government Center, 1255 Franklin Street, Suite 104, Rocky Mount, Virginia to consider a lease arrangement for a period of up to two (2) years for agricultural purposes on approximately eighty-four (84) acres of land located at the corner of Six Mile Post Road (Route 640) and Waid Park Road (Route 800) in the Blackwater Magisterial District. This land is adjacent to the premises of Waid Park. **(See Attachment #4)**

PETITION OF SPECIAL USE - Petition of Julie L. Phelps, Petitioner/Owner requesting a Special Use Permit for "Recreational Facilities (Private), Summer Camp, Campground (Private), and Motels, Hotels, Tourist and Resort Facilities" for a +/- 185 acre parcels of land, located on 5076 Edwardsville Road in the Boone District of Franklin County, and further identified by Franklin County Real Estate records as Tax Map/Parcel #0110003302, 0110003300, 0110000302b, 0110003100 (Case # SPEC-5-15-14332) **(See Attachment #3 & Back Pocket of Board Folder)**

Call to Order and Action Taken as Deemed Appropriate from Public Hearings
Adjournment Thereafter

RISE & SHINE GUESTS FOR DECEMBER ARE BOB CAMICIA & BRENT

FRANKLIN COUNTY
Board of Supervisors



Franklin County

A Natural Setting for Opportunity

EXECUTIVE SUMMARY

AGENDA TITLE:

School CIP Request

SUBJECT/PROPOSAL/REQUEST:

Request of the Board to move School Five Year CIP Savings of \$153,000 to roof replacement at Snow Creek Elementary

STAFF CONTACT(S):

Messrs. Robertson, Copenhaver, Dr. Church

AGENDA DATE: December 15th, 2015 **ITEM NUMBER:**

ACTION: YES

INFORMATION:

CONSENT AGENDA:

ACTION:

INFORMATION:

ATTACHMENTS: YES

REVIEWED BY: *PR*

BACKGROUND:

The Board of Supervisors has requested that County staff review all appropriation requests from the Franklin County Public Schools

DISCUSSION:

A five year school capital funding plan was adopted by the Board of Supervisors beginning in Fiscal Year 12-13. A total of \$4.9 million has been spent to date on various projects including roof replacements, water system upgrades, gym floor replacement, asphalt replacement and CCTV Camera Upgrades. Completed projects have been \$154,885 under budget in total.

The Schools would like to use \$153,000 of future savings from the Rocky Mount Elementary roof replacement project towards a metal roof replacement project at Snow Creek Elementary School.

A schedule of completed, in progress and future school capital projects is attached for the Board's review.

RECOMMENDATION:

Staff respectfully requests the Board's authorization for the re-allocation of \$153,000 from School Five Year CIP savings to a metal roof replacement project at Snow Creek Elementary School

Franklin County
Status of School Capital by Fiscal Year

			<u>FY12-13</u>	<u>FY13-14</u>	<u>FY14-15</u>	<u>FY15-16</u>	<u>FY16-17</u>	<u>Total Revenue Through 16-17</u>		
<u>Revenues</u>										
County Capital Transfer				\$880,000	\$880,000	\$880,000	\$880,000			
School Debt Drop Off			\$487,000	\$399,000	\$457,000	\$705,000	??			
One-Time Capital Funds			\$352,744							
General Fund - Security Upgrades			\$397,000							
			<u>\$1,236,744</u>	<u>\$1,279,000</u>	<u>\$1,337,000</u>	<u>\$1,585,000</u>	<u>\$880,000</u>	<u>\$6,317,744</u>		
									(Over)	
<u>Expenditures</u>	<u>Adjusted Budget</u>	<u>Status</u>	<u>FY12-13</u>	<u>FY13-14</u>	<u>FY14-15</u>	<u>FY15-16</u>	<u>FY16-17</u>	<u>Total Spent</u>	<u>Under Budget</u>	
Roof Replacement Boones Mill	\$390,137	Completed	\$354,677	\$35,460				\$390,137	\$0	
Roof Replacement Dudley	\$410,926	Completed		\$371,029				\$371,029	\$39,897	
Water System Upgrade at Callaway Sontag and Dudley	\$317,675	Completed	\$52,250	\$293,168	\$8,805			\$354,223	-\$36,548	
Gym Floor Replacement BFMS West, Hawkins	\$453,120	Completed	\$152,410	\$139,170				\$291,580	\$161,540	
Asphalt Replacement at BFMS	\$565,710	Completed	\$119,115	\$436,757				\$555,872	\$9,838	
CCTV Camera Upgrade	\$301,010	Completed	\$182,420	\$59,108	\$59,482			\$301,010	\$0	
Plumbing Fixture/Partition Upgrades	\$750,000		\$36,212	\$283,215	\$169,224	\$11,668		\$500,319	\$249,681	
Install Central Station Smoke Detectors at All S	\$320,000				\$39,677	\$34,249		\$73,926	\$246,074	
Air Conditioning for Lee Waid & Snow Creek Cafeterias, Burnt Chimney HVAC	\$802,770				\$412,720	\$378,233		\$790,953	\$11,817	
Asbestos Removal/Floor Tile Replacement	\$700,000		\$20,521	\$221,595	\$185,568	\$76,221		\$503,905	\$196,095	
Security Upgrades	\$397,000	Completed	\$250,174	\$146,826	\$19,842	\$0		\$416,842	-\$19,842	
Roof Replacement at Sontag	\$536,130				\$221,113	\$141,386		\$362,499	\$173,631	
Line of Credit Interest					\$793			\$793	-\$793	
Snow Creek Roof Replacement	\$153,000							\$0	\$153,000	
Roof Replacement at Rocky Mount Elementary	\$575,062					\$4,192	\$500,000	\$504,192	\$70,870	
			<u>\$6,672,540</u>	<u>\$1,167,779</u>	<u>\$1,986,328</u>	<u>\$1,117,224</u>	<u>\$645,949</u>	<u>\$500,000</u>	<u>\$5,417,280</u>	<u>\$1,255,260</u>

Spent YTD = \$4,917,280



FRANKLIN COUNTY PUBLIC SCHOOLS

Office of Superintendent

25 Bernard Road • Rocky Mount, VA 24151-6614
(540) 483-5138 • FAX (540) 483-5806

October 28, 2015

Mr. Brent Robertson
County Administrator
1255 Franklin Street, Suite 112
Rocky Mount, VA 24151

Re: Five Year Capital Improvement Plan Budget Transfer Request

Dear Mr. Robertson:

Construction, design, and construction administration estimates for the roof replacement project at Rocky Mount Elementary indicate that we can expect the total cost of the project to be approximately \$500,000, with \$728,062 budgeted in the current Capital Improvement Plan. This will provide approximately \$228,062 in funding available to address other capital needs.

At its regular meeting on October 12, 2015, the Franklin County School Board approved the recommendation that we request approval from the Board of Supervisors to transfer from the Rocky Mount Elementary roof project \$153,000 to establish a new capital project for the metal roof replacement at Snow Creek Elementary. This roof is in need of replacement and this project will also fix continuous leak issues that are occurring around the vents that protrude thru the roof structure. We are planning for the replacement needs to occur this fall so that construction can occur during the summer of 2016.

I respectfully request that the Board of Supervisors approve this request. We look forward to your review and consideration.

If you have any questions concerning this request, please feel free to contact me.

Sincerely,

W. Mark Church, Ph.D.
Division Superintendent

cc: Mr. Vincent Copenhaver, Finance Director
Mr. David Terry, Director of Business and Finance
Ms. Sharon Tuttle, Assistant Director of Business and Finance
Mr. Anthony Patterson, Director of Operations
Mr. Darryl Spencer, Supervisor of Buildings and Grounds
Mr. G. B. Washburn, School Board Chair

**THE FOLLOWING TERMS ARE UP FOR RE-APPOINTMENT
BY.
DECEMBER 15 & 31, 2015**

(NOTIFICATION IS GIVEN ACCORDING TO THE BOARD'S POLICY/60 DAYS PRIOR TO EXPIRATION)

COMMITTEE	NAME	ADDRESS	DISTRICT	YEAR	TERM EXPIRES
AG BOARD	Daniel Austin	5688 Old Forge Road Rocky Mount, VA 24151	Crops	OPEN	12/15/2015
AG BOARD	Lynn Satalino	220 Mallard Point Road Wirtz, Va 24184	Equine	OPEN	12/15/2015
AG BOARD	Connell McEnheimer	4999 Sontag Road Rocky Mount, VA 24151	Tobacco	OPEN	12/15/2015
AG BOARD	Davis Torrence	2801 McNeil Mill Road Rocky Mount, VA 24151	Cattle	2-Year	12/15/2017
F. C. IDA	George McCall	1829 Deepwoods Road Hardy, Virginia 24101	Boone	4-Year	11/18/2015
F. C. IDA	Peter Coriasco	180 Windmere Trail Moneta, VA 24121	Gills Creek	4-Year	11/18/2015
WEST PIEDMONT PLANNING COMMISSION BOARD	Bobby Thompson	Post Office Box 40 Ferrum, VA 24088	BOS Rep	1-Year	12/31/2015
TLAC	Robert Camicia	143 Charlotte Lane Hardy, VA 24101	BOS Rep	1-Year	1/31/2016
TLAC	Kristina Mize	499 Periwinkle Road Moneta, VA 24121	Citizen	1-Year	1/31/2016

MEMORANDUM
Case # SPEC-9-15-14745



To: Franklin County Board of Supervisors
From: Franklin County Planning Commission *smz*
Date: December 15, 2015
Tax #s: 11-3.2b,31,33 & 33.2
District: Boone District
Applicant: Julie L. Phelps
Owners: Julie L. Phelps

REQUEST:

Petition of **Julie L. Phelps, Petitioner/Owner** requesting a Special Use Permit for "Recreational Facilities (Private), Summer Camp, Campground (Private), and Motels, Hotels, Tourist and Resort Facilities" for a +/- 185 acre parcels of land, located on 5076 Edwardsville Road in the Boone District of Franklin County, and further identified by Franklin County Real Estate records as Tax Map/Parcel #0110003302, 0110003300, 0110000302b, 0110003100. The subject property is zoned A-1, Agricultural District, which allows a maximum residential density of 1.25 dwelling units per acre. The Future Land Use Map of the Franklin County Comprehensive Plan identifies this area as appropriate for Agriculture Forestry/Rural Residential uses, with an anticipated residential density of one to two dwelling units per acre. The subject property currently has a residential density of approximately 0.01 dwelling units per acre. This petition would result in the location of twenty-four (24) additional cabins and forty (40) Hogan camping locations, with a resulting residential density of 0.36 dwelling units per acre. (Case # SPEC-9-15-14745)

RECOMMENDATION:

The Planning Commission held a public hearing in consideration of this request on October 13, 2015. The matter was tabled and further considered at its November 10, 2015, meeting. By vote of 4-2-1 (Webb & Law opposed; Mitchell absent) the Planning Commission **denied** the above request for a Special Use Permit.

The Planning Commission determined the request did not meet the requirements for issuance of a special use permit found in Section 25-638 of the Franklin County Code and recommends that the Board of Supervisors deny this request for Special Use Permit.



STAFF REPORT
BACKGROUND:

The petitioner requests a Special Use Permit for “Recreational facilities (private)”, “Summer Camp”, “Campground (Private)”, and “Motels, Hotels, Tourist and Resort Facilities” for the 185+/- acre property surrounding the applicant’s home on Edwardsville Road in Boone District. There are a number of structures on the property; the Phelps’s home, barns and one existing cabin. Julie Phelps’s has been involved with motocross activities as her children have grown up and would like to offer a place for others to practice and train on her property. The use is classified as “Recreational facilities (private)” since she would be providing facilities related directly to outdoor recreation for motocross training and practice. She would also like to conduct a ministry summer camp for youth that could be expanded over time to include an adult retreat ministry. This proposal entails uses classified as “Summer Camp”, “Campground” and “Motels, Hotels, Tourist and Resort Facilities”. The camp facilities for youth summer camp would operate primarily during summer months however, the adult retreat ministry would provide meeting areas, teaching and counseling that would be conducted over weekends or periods of several days, involving overnight stays. The facility would offer outdoor amenities to be used in conjunction with the counseling services including walking trails, zip lines and natural areas. Further explanation of the proposal can be found in document entitled, “Phelps Farm Narrative for Special Use Permit” dated September 8, 2015. The applicant has also submitted a conceptual plan entitled “Phelps Farm” prepared by Hill Studio and dated September 8, 2015. Additional information about the proposed uses can also be found at the following links: <https://vimeo.com/139518086>; <https://www.facebook.com/PhelpsFarmOffroadDirtbikePracticeTrackAndTrails>; and http://www.riderplanet-usa.com/atv/trails/info/virginia_15118/ride_c9fd.htm In order to allow any “Recreational facilities (private)”, “Summer Camp”, “Campground” and “Motels, Hotels, Tourist and Resort Facilities”, a Special Use Permit is required to be issued by the Board of Supervisors under Section 25-179 of the County Code.

The aerial view of the parcel shows the rural agricultural and low density residential nature of the area, characterized by scattered dwellings among open fields and wooded lands. The area is served by individual wells and septic systems. Edwardsville Road [SR 635], fronting the property is a public road; the property contains over one hundred and eighty-five acres and has approximately 220’ of frontage. See attached maps.

During the Development Review Team (DRT) meeting where the application was reviewed, Staff received comments from Public Works, Planning, VDOT, and the Virginia Dept. of Health.



The application was advertised, posted, and notifications sent to all adjacent property owners. As of the date the staff report was finalized, this proposal has generated several inquiries from the public and requests for copies of the application from neighboring property owners. A variety of opinions, including concerns about traffic, property values and noise, were generated by the public. Some letters, emails and phone calls have been received by staff regarding this request. Additional comments and concerns may be raised as a result of the public hearings. The property owner conducted a neighborhood meeting at her home on September 22, 2015. A summary of the meeting has been provided by the Petitioner and is attached to this report.

SITE STATISTICS:

<i>Location:</i>	5076 Edwardsville Road, in the Boone District
<i>Size:</i>	+/- 185 acres
<i>Existing Land Use:</i>	Agricultural, Low Density Residential
<i>Adjoining Zoning:</i>	A1, Agricultural District
<i>Adjoining Land Uses:</i>	Residential, Agriculture, Vacant Wooded
<i>Adj. Future Land Uses:</i>	Low Density Residential

COMPREHENSIVE PLAN:

This property is designated in the 2025 Comprehensive Plan as Agricultural/Forestry/Rural Residential according to the Future Land Use Map. The proposed project is located on 185 acres and the proposed residential density is 0.36 dwelling units per acre; which is below the maximum residential density of 1.25 dwelling units per acre. The comprehensive plan supports the development of the property with strong conditions concerning the forested land which buffers adjoining property lines and existing residential properties across Edwardsville Road. Even though the residential density is below the maximum, conditions to address the amount of housing units and campers proposed on this project should be considered. Below are excerpts from the 2025 Comprehensive Plan that are applicable to this property and proposed uses.

Farmland

Farmland constitutes the rural nature of the County. The agricultural industry in Franklin County is experiencing a transitional period. Dairy farms are consolidating and the tobacco industry is in decline. However, a segment of the community remains



dedicated to the agricultural way of life and it is desirable to protect a certain amount of agricultural land.

At present, low density residential development occurs by right in agriculturally zoned areas. These developments have inadequate buffers, agricultural and forestal operations are potentially incompatible with new residential land use.

Policies for Farmland

1. *Design residential development to add open space between residential and agricultural uses so that each is adequately buffered from the other.*
2. *Farmland Preservation: Provide incentives to discourage the conversion of active agricultural land to other uses through continued use value assessment and taxation. Investigate the use of State of Virginia purchase of development rights, transfer development rights, and other measures for farmland preservation.*
3. *Agribusiness: Support and encourage both temporary and ongoing agribusiness activities on farms that contribute to their continuing economic operation. Ensure flexible siting standards to permit the location and continuation of agribusiness that support or are a part of the agricultural and forestal economy.*
4. *Conservation of Farmland: Where development occurs in identified agricultural conservation areas, use flexibility in regulations to permit new development to locate on sites that minimize interference with agricultural operations.*
5. *Soil and Water Conservation: Encourage agricultural policies to protect and preserve soil and water quality.*
6. *Watershed Conservation: Encourage the combination of agricultural-oriented technical and financial assistance programs with watershed management programs to identify and prioritize problems areas and to improve conservation measures.*
7. *Nutrient Management Plans: Promote Best Management Practice (BMP) for agriculture to minimize nutrient run-off in Franklin County.*
8. *The burden of providing buffers between the uses should be on the new residential development. Such buffers protect agricultural operations from nuisance complaints.*

Forestland

Forestlands in the County are fundamental and vital part of the County's character, and are a productive use of large tracts of rugged terrain. Forestland provides numerous recreational activities and plays an important role in tourism. Not only are forestlands important for economic perspective, but a wildlife habitat. Forestry should



remain an important land use for the future, and County policies should seek to protect and preserve forest interests.

Policies for Forestland

1. *Forestry Preservation: Investigate land use policies that will ensure contiguous tracts of forestland are preserved to ensure forest for economic, tourism, recreation activities, and wildlife habitation.*
2. *Forestry activities should be conducted in accordance with Forestry Best Management Practices (BMP) to prevent adverse impacts such as erosion and siltation on watersheds.*
3. *Forestral Operations: Ensure flexible but effective siting standards for forest operations, including but not limited to saw mills, lumber concentration yards, and trucking operations.*

Rural Residential

The rural areas of Franklin County outside of the built-up settlements will be a mix of agricultural and forestal uses interspersed with residential uses. Rural residential lots will support farm homes and individual single-family dwellings. Water and sewer typically will be provided by on-site well and septic systems. In general, development should be on side roads in order to preserve the open character and safety of County roads by reducing the number of public access points. Developers or residents in these areas should not expect public facilities or utilities to be constructed for their benefit.

Manufactured housing constitutes large part of available affordable housing stock. Manufactured housing parks should be well designed, with interior service roads and coordinated access points onto state roads.

Policies for Rural Residential

1. *Encourage private roads in rural residential development to meet state standards.*
2. *Proposed subdivisions should be served by internal streets that connect to existing rural roads to avoid strip development and to minimize individual driveway access along existing collector highways.*
3. *All building lots fronting on state maintained roads in rural areas should be laid out to minimize the stacking of access points.*



4. *Roads that are not built to state standards and that are not eligible for inclusion in the state highway system should have mandatory provisions for the establishment of associations that provide for maintenance by lot owners.*
5. *Cluster development in new subdivisions should be encouraged to preserve land area to be devoted to open space, active recreation, preservation of environmentally sensitive areas, or agriculture.*
6. *Streets within subdivisions shall be designed to provide interconnections to adjacent vacant land for future subdivision access and circulation.*
7. *Building setbacks on primary and secondary roadways should be increased and natural vegetation along the roadways should be retained/established as a means of preserving the rural roadscape.*
8. *Existing subdivision and zoning ordinances shall be reviewed and the current policy for by right subdivisions in A1 zones which allows 35,000 square foot lots needs to be reconsidered.*

ZONING ORDINANCE:

Special Uses for the A-1 District are set forth in Sec. 25-179. The requested use is referenced as “Recreational facilities (private)”, Summer Camp, Campground (Private) and “Motels, Hotels, Tourist and Resort Facilities”. Section 25-155 also sets specific standards for the campground use. Short-term tourist rentals of dwelling is also implied as a part of this request due to the nature of the use of “Motels, Hotels, Tourist and Resort Facilities”.

Sec. 25-638 of the Zoning Ordinance sets forth the County’s authority to issue special use permits for certain uses. The ordinance states that, in order to issue a special use permit, the Board of Supervisors must find that *“such use will not be of substantial detriment to adjacent property, that the character of the zoning district will not be changed thereby, and that such use will be in harmony with the purpose and intent of this chapter, with the uses permitted by-right in the zoning district, with additional regulations provided in sections 25-111 through 25-137, supplemental regulations, and amendments, of this chapter, and with the public health, safety, and general welfare.”*

Sec. 25-640 of the Zoning Ordinance sets forth the County’s authority to impose conditions for the issuance of special use permits. The ordinance states that the Board of Supervisors *“may impose upon any such permit such conditions relating to the use for which such permit is granted as it may deem necessary in the public interest...”* Conditions associated with a special use permit must be related to the particular land use which required the permit, and must be related to some impact generated by or associated with such land use.



Sec. 25-641 of the Zoning Ordinance states that a special use permit shall expire eighteen (18) months from the date of issuance if “*no commencement of use, structure or activity has taken place.*” The ordinance states that “commencement” shall consist of “extensive obligations or substantial expenditures in relation to the project,” including engineering, architectural design, land clearing, and/or construction.

ANALYSIS:

In accordance with Section 25-638 of the Zoning Ordinance, the proposed special use permit is being evaluated to determine if these uses will be substantial detriment to adjacent properties, whether the character of the zoning district will be changed thereby, and that such uses will be in harmony with the purpose and intent of this chapter, with the uses permitted by-right in the zoning district, with additional regulations provided in sections 25-111 through 25-137, supplemental regulations, and amendments, of this chapter, and with the public health, safety, and general welfare. Review of the proposed uses does identify potential impacts in the following areas to be addressed:

Transportation

The existing entrance to the property is located on Edwardsville Road (Rte. 635). The entrance is graveled and approximately eighteen (18) feet in width. The application indicates that there is sufficient sight distance at the existing entrance; 995 feet to the north, 813 feet to the south. The applicant is planning to upgrade the entrance to the property on Edwardsville Road to meet VDOT entrance requirements. This would likely require a 30-50 foot wide paved apron to be installed. Current speed limit on Route 635 is 55 mph.

The Edwardsville Road entrance will be the primary entrance for all activities proposed in this petition for special use permit. A secondary entrance is available on Daylilly Lane (private) and is proposed to be used for service deliveries and emergency access. The anticipated traffic generation for the proposed activities is difficult to ascertain however, planning staff has attempted to make a determination based on the estimates given in the SUP narrative. This narrative estimates 300 campers per week during summer months and 250 motocross users or spectators resulting in approximately 35 users per month at full build-out. In addition it is anticipated that there will be users of the cabins approximately 3-4 days per week (25 cabins @ 4 days/week) totaling 100 users/week. It is estimated that the full build-out of the site under this requested special use permit could be 100-125 vehicle trips per day on a peak day. This would create a 19.5% increase in the existing traffic counts over the current traffic count on Edwardsville Road. Traffic from the motocross facility is expected to be on weekends throughout the year and also weekdays during fall and winter. Camp traffic is expected to peak on Mondays and



Thursdays (drop off and pick up days) during summer months. Cabin use and rentals is expected throughout the year. Service deliveries are also expected throughout the year but heaviest during summer months. This amount of traffic is significantly more than a single-family dwelling or other rural residential uses but can be reasonably accommodated on the existing state maintained road.

Density

The Comprehensive Plan identifies the future land use for this area as Agriculture/Forestry/Rural Residential. The proposed uses do not exceed the rural residential densities of 1-2 units/acre however, the proposed uses of the property do have the potential to generate significant increases in activity and use of the property for short-term rental, camping and recreational uses. It is important that the proposed uses can be built and operated in such a way that is not a substantial detriment to adjoining properties and do not negatively impact the health, safety and welfare of the citizens of Franklin County. It may be desirable to reduce the overall density until impacts can be adequately determined.

Water and Sewer

Water and sewer upgrades will be required for both the summer camp facilities and activities as well as use of cabin facilities. The site will be served by private water and private sewer. It has not been determined if the site will be served by a private community water system or individual wells. Septic facilities will be required for all cabins and bath house/kitchen facilities. Primitive camping associated with motocross is currently offered on site but no septic facilities are proposed for this use. The petitioner shall be required to identify all proposed uses and provide detailed engineering reports. The Virginia Department of Health will make the final determination on water and sewer system requirements.

Erosion and Sediment Control and Storm Water Management

The proposed use of the property will require review and approval under the erosion and sediment control and storm water management regulations. The petitioner indicates that the property will remain largely in its natural, wooded state however there will be some minor clearing of trees in the area of the twenty-four (24) planned cabins, forty (40) hogans and motocross track/trails. The intention is that newly constructed facilities including septic drainfields would be constructed primarily in existing open pastures. Motocross facilities shall be constructed and maintained so as to not increase runoff and sedimentation of adjacent streams. However, an active permit will be required for the motocross trails/track due to bare soil. Development plans should be developed for all phases to ensure compliance with local and State regulations.



Public Safety

The use of the property for motocross training/practice does present safety concerns related to biker safety. The use of the summer camp and cabin rentals does present additional concerns for health and safety of visitors on-site. Finally, the presence of the various users on site also creates safety concerns related to fire, theft and potential undesirable behaviors from visitors. All of these potential safety concerns will result in additional burden to Red Valley Rescue Squad, Burnt Chimney Fire Department and Franklin County Sheriff's Office. The owner/operator should have an emergency response plan on file to handle personal injury, fire and other potential safety issues on site including gas/oil spills on the property and communicate this to appropriate agencies.

Noise

Noise is another concern related primarily to the proposed use of the motocross practice/training facility. Noise from the motocross bikes can be a nuisance to neighboring property owners especially if the sound emission of bikes is not controlled with mufflers or other silencers. The number of bikes allowed to use the track at any one time and hours of operation can also contribute to noise pollution concerns in surrounding area. The special use permit narrative has suggested hours of operation to be 10 am-5pm during the fall and winter months and 9am-5pm during the spring and summer (primarily weekends). The noise impact of the bikes can be mitigated or reduced through conditions/restrictions but will not be entirely eliminated.

Staff believes that the subject property is generally appropriate for very small-scale, limited recreational and tourist facilities. The tract is relatively large and wooded, with varied topography and scenic vistas. The property is not part of a residential subdivision. There will be no development in sensitive wetland areas or floodplain.

RECOMMENDATION:

The Planning Commission held a public hearing on this request on October 13, 2015. After closing the public hearing, the Commission voted to table the request until November 10, 2015 to allow the Commission members and staff time to review new information that was submitted at the meeting. Also, the Planning Commission directed staff to work with the applicant to develop conditions related to noise, buffering and RV camping concerns.

Staff recommends that the granting of a Special Use Permit for this property be accompanied by conditions intended to mitigate any anticipated off-site impacts to the surrounding properties and preserve existing natural site surroundings that will ensure



that the development is and continues to be an amenity to the area and County: the conditions recommended prior to the November 10, 2015 Planning Commission are listed in the recommendation below. The Board of Supervisors may attach additional conditions as deemed necessary as a result of the public hearings if they should choose to approve their requested Special Use permit(s).

1. Substantial conformity. The property shall be developed in substantial conformity with the conceptual plan dated 10/28/2015, entitled "Phelps Farm," and narrative, entitled "Phelps Farm Narrative for Special Use Permit", consisting of pages 1-4, prepared by Hill Studio.

2. Limitation of Use. The use of "Recreational Facilities (private)", "Summer Camp", "Campground (Private)", and "Motels, Hotels, Tourist and Resort Facilities" shall be limited to a recreational motorcross practice/training facility (no racing) and associated facilities, private campground with cabins for youth summer camp and associated facilities, tourist facility for adult retreats consisting of a campground and ten (10) self-contained cabins for overnight and/or short-term lodging and associated facilities, including walking trails and outdoor activity areas in conformance with conceptual plan and narrative referenced in #1 above.

3. Buffering. The use of "Recreational facilities (private)", "Summer Camp", "Campground (Private)" and "Motels, Hotels, Tourist and Resort Facilities" shall require the perpetual maintenance of the existing wooded buffer along the exterior perimeter property line of all parcels as shown on the Conceptual Plan dated 10/28/2015, and shall measure a minimum of not less than one hundred feet (100') in depth, as measured perpendicular to the property line. Removal of dead or diseased trees shall be permitted. No trail shall be located within the 100-foot buffer.

4. Noise:

- a. No motocross racing shall be permitted on the subject property.
- b. All bikes using the property shall have proper mufflers or other silencers to reduce noise impacts on adjoining properties.
- c. No more than 230 motocross bikes shall be allowed to practice/train on the trails and motocross track at one time to maintain acceptable noise standards. The number of allowable motorcycles is determined by an acoustic professional based on the Housing and Urban Development (HUD) recommended acceptable sound level of 65 dBA Leq for residential areas as established in the Environmental Standards and Criteria set forth in Title 24 Code of Federal Regulation, Part 51.



A temporary event permit shall be applied for by property owner and approved by the Franklin County Zoning Administrator in accordance with Franklin County Zoning Section 25-134 (defining the event type, duration, attendance expectations, parking, traffic control, and sanitation and safety provisions) for an occasional increase in the number of allowable motocross bikes.

- d. Hours of operation for the recreation facility, private shall be limited to 10am-5pm. In addition, use of the recreation facility, private and summer camp shall not occur concurrently. However, motocross training shall be permitted as an activity during the youth summer camp.
- e. No trails shall be located closer than 100 feet to the property line. New trails on sloping topography shall be sited such that they are below natural grade to assist in suppressing sound levels from the motocross bikes.
- f. The motocross training track shall be designed to include supplemental plantings and earthen berms in accommodating track curves to assist in absorbing noise and in managing storm water runoff. These provisions shall be designed during development of the grading plan, and approved by the Zoning Administrator as part of site development review.

5. Compliance with State Regulations:

- a. All overnight use of the property and public gatherings shall be approved by the Virginia Department of Health to ensure compliance with respect to water supply, waste disposal and food service and preparation.
- b. The existing entrance on Edwardsville Road (Rte. 635) shall be improved to meet VDOT standards and requirements prior to any use authorized by this special use permit.
- c. No gasoline or oil products shall be stored on the subject property without the approval of VA Department of Environmental Quality and/or Franklin Building Official.

Each phase of development shall have an approved development plan detailing all land disturbing activities and storm water management.

6. Operations Manuals: The property owner shall develop an emergency operations manual for the property that details protocols for fires, bodily injuries, theft, special events and hazardous material incidents on the subject property. The property owner shall also develop a manual defining rules and regulations concerning the uses approved under this special use permit. For example, rules for use of the motocross facility (age, noise, hours restrictions, safety equipment required, etc.) shall be stated therein. Both manuals



shall be submitted to the Zoning Administrator before commencing uses defined herein. The manual shall be amended as uses begin or are expanded.

7. Trash/Litter: All trash generated on the subject property shall be properly contained and secured on site until it can be picked up by licensed trash hauler or properly disposed at appropriate facility.

8. Access to the property from Daylilly Lane (private) shall be limited to private use by the property owner, service vehicles for the summer camp activities and emergency vehicles. This entrance shall be gated to limit use from public.

9. Sports-type lighting of the recreation facility, private shall not be allowed. Dusk to dawn lighting for security shall be permitted.

10. RV camping shall be allowed on the subject property in accordance with Franklin County Zoning Section 25-155, Campgrounds and Recreational Vehicle/Camper Areas.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission held a public hearing in consideration of this request on October 13, 2015. The matter was tabled and further considered at its November 10, 2015, meeting. By vote of 4-2-1 (Webb & Law opposed; Mitchell absent) the Planning Commission **denied** the above request for a Special Use Permit.

The Planning Commission determined the request did not meet the requirements for issuance of a special use permit found in Section 25-638 of the Franklin County Code and recommends that the Board of Supervisors deny this request for Special Use Permit.



SUGGESTED MOTIONS:

The following suggested motions are sample motions that may be used. They include language found in Section 15.2-2283, Purpose of zoning ordinances of the Code of Virginia of 1950, as amended.

- 1) (APPROVE) I find that the proposal will not be of substantial detriment to adjacent property, that the character of the projected future land use of the community will not be adversely impacted, that such use will be in harmony with the purpose and intent of the zoning ordinance and with the public health, safety and general welfare. Therefore I move to recommend approval of the petitioner's request for a Special Use Permit for "Recreational Facilities (private)", "Summer Camp", "Campground (Private)", and "Motels, Hotels, Tourist and Resort Facilities", in accordance with Sec. 25-179 of the Zoning Ordinance, with the conditions as recommended in the staff memorandum.

OR

- 2) (DENY) I find that the proposal is of substantial detriment to adjacent property and that such use will not aid in the creation of a convenient, attractive, or harmonious community. Therefore I move to recommend to deny the request for the Special Use Permit.

OR

- 3) (DELAY ACTION) I find that the required information for the submitted petition is incomplete. Therefore I move to delay action until all necessary materials are submitted to the Board of Supervisors.

MEMORANDUM
Case # SPEC-9-15-14745



To: Franklin County Board of Supervisors
From: Franklin County Planning Commission *SMS*
Date: December 15, 2015
Tax #s: 11-3.2b,31,33 & 33.2
District: Boone District
Applicant: Julie L. Phelps
Owners: Julie L. Phelps

REQUEST:

Petition of **Julie L. Phelps, Petitioner/Owner** requesting a Special Use Permit for "Recreational Facilities (Private), Summer Camp, Campground (Private), and Motels, Hotels, Tourist and Resort Facilities" for a +/- 185 acre parcels of land, located on 5076 Edwardsville Road in the Boone District of Franklin County, and further identified by Franklin County Real Estate records as Tax Map/Parcel #0110003302, 0110003300, 0110000302b, 0110003100. The subject property is zoned A-1, Agricultural District, which allows a maximum residential density of 1.25 dwelling units per acre. The Future Land Use Map of the Franklin County Comprehensive Plan identifies this area as appropriate for Agriculture Forestry/Rural Residential uses, with an anticipated residential density of one to two dwelling units per acre. The subject property currently has a residential density of approximately 0.01 dwelling units per acre. This petition would result in the location of twenty-four (24) additional cabins and forty (40) Hogan camping locations, with a resulting residential density of 0.36 dwelling units per acre. (Case # SPEC-9-15-14745)

RECOMMENDATION:

The Planning Commission held a public hearing in consideration of this request on October 13, 2015. The matter was tabled and further considered at its November 10, 2015, meeting. By vote of 4-2-1 (Webb & Law opposed; Mitchell absent) the Planning Commission **denied** the above request for a Special Use Permit.

The Planning Commission determined the request did not meet the requirements for issuance of a special use permit found in Section 25-638 of the Franklin County Code and recommends that the Board of Supervisors deny this request for Special Use Permit.

**STAFF REPORT****BACKGROUND:**

The petitioner requests a Special Use Permit for “Recreational facilities (private)”, “Summer Camp”, “Campground (Private)”, and “Motels, Hotels, Tourist and Resort Facilities” for the 185+/- acre property surrounding the applicant’s home on Edwardsville Road in Boone District. There are a number of structures on the property; the Phelps’s home, barns and one existing cabin. Julie Phelps’s has been involved with motocross activities as her children have grown up and would like to offer a place for others to practice and train on her property. The use is classified as “Recreational facilities (private)” since she would be providing facilities related directly to outdoor recreation for motocross training and practice. She would also like to conduct a ministry summer camp for youth that could be expanded over time to include an adult retreat ministry. This proposal entails uses classified as “Summer Camp”, “Campground” and “Motels, Hotels, Tourist and Resort Facilities”. The camp facilities for youth summer camp would operate primarily during summer months however, the adult retreat ministry would provide meeting areas, teaching and counseling that would be conducted over weekends or periods of several days, involving overnight stays. The facility would offer outdoor amenities to be used in conjunction with the counseling services including walking trails, zip lines and natural areas. Further explanation of the proposal can be found in document entitled, “Phelps Farm Narrative for Special Use Permit” dated September 8, 2015. The applicant has also submitted a conceptual plan entitled “Phelps Farm” prepared by Hill Studio and dated September 8, 2015. Additional information about the proposed uses can also be found at the following links: <https://vimeo.com/139518086>; <https://www.facebook.com/PhelpsFarmOffroadDirtbikePracticeTrackAndTrails>; and http://www.riderplanet-usa.com/atv/trails/info/virginia_15118/ride_c9fd.htm In order to allow any “Recreational facilities (private)”, “Summer Camp”, “Campground” and “Motels, Hotels, Tourist and Resort Facilities”, a Special Use Permit is required to be issued by the Board of Supervisors under Section 25-179 of the County Code.

The aerial view of the parcel shows the rural agricultural and low density residential nature of the area, characterized by scattered dwellings among open fields and wooded lands. The area is served by individual wells and septic systems. Edwardsville Road [SR 635], fronting the property is a public road; the property contains over one hundred and eighty-five acres and has approximately 220’ of frontage. See attached maps.

During the Development Review Team (DRT) meeting where the application was reviewed, Staff received comments from Public Works, Planning, VDOT, and the Virginia Dept. of Health.



The application was advertised, posted, and notifications sent to all adjacent property owners. As of the date the staff report was finalized, this proposal has generated several inquiries from the public and requests for copies of the application from neighboring property owners. A variety of opinions, including concerns about traffic, property values and noise, were generated by the public. Some letters, emails and phone calls have been received by staff regarding this request. Additional comments and concerns may be raised as a result of the public hearings. The property owner conducted a neighborhood meeting at her home on September 22, 2015. A summary of the meeting has been provided by the Petitioner and is attached to this report.

SITE STATISTICS:

<i>Location:</i>	5076 Edwardsville Road, in the Boone District
<i>Size:</i>	+/- 185 acres
<i>Existing Land Use:</i>	Agricultural, Low Density Residential
<i>Adjoining Zoning:</i>	A1, Agricultural District
<i>Adjoining Land Uses:</i>	Residential, Agriculture, Vacant Wooded
<i>Adj. Future Land Uses:</i>	Low Density Residential

COMPREHENSIVE PLAN:

This property is designated in the 2025 Comprehensive Plan as Agricultural/Forestry/Rural Residential according to the Future Land Use Map. The proposed project is located on 185 acres and the proposed residential density is 0.36 dwelling units per acre; which is below the maximum residential density of 1.25 dwelling units per acre. The comprehensive plan supports the development of the property with strong conditions concerning the forested land which buffers adjoining property lines and existing residential properties across Edwardsville Road. Even though the residential density is below the maximum, conditions to address the amount of housing units and campers proposed on this project should be considered. Below are excerpts from the 2025 Comprehensive Plan that are applicable to this property and proposed uses.

Farmland

Farmland constitutes the rural nature of the County. The agricultural industry in Franklin County is experiencing a transitional period. Dairy farms are consolidating and the tobacco industry is in decline. However, a segment of the community remains



dedicated to the agricultural way of life and it is desirable to protect a certain amount of agricultural land.

At present, low density residential development occurs by right in agriculturally zoned areas. These developments have inadequate buffers, agricultural and forestal operations are potentially incompatible with new residential land use.

Policies for Farmland

1. *Design residential development to add open space between residential and agricultural uses so that each is adequately buffered from the other.*
2. *Farmland Preservation: Provide incentives to discourage the conversion of active agricultural land to other uses through continued use value assessment and taxation. Investigate the use of State of Virginia purchase of development rights, transfer development rights, and other measures for farmland preservation.*
3. *Agribusiness: Support and encourage both temporary and ongoing agribusiness activities on farms that contribute to their continuing economic operation. Ensure flexible siting standards to permit the location and continuation of agribusiness that support or are a part of the agricultural and forestal economy.*
4. *Conservation of Farmland: Where development occurs in identified agricultural conservation areas, use flexibility in regulations to permit new development to locate on sites that minimize interference with agricultural operations.*
5. *Soil and Water Conservation: Encourage agricultural policies to protect and preserve soil and water quality.*
6. *Watershed Conservation: Encourage the combination of agricultural-oriented technical and financial assistance programs with watershed management programs to identify and prioritize problems areas and to improve conservation measures.*
7. *Nutrient Management Plans: Promote Best Management Practice (BMP) for agriculture to minimize nutrient run-off in Franklin County.*
8. *The burden of providing buffers between the uses should be on the new residential development. Such buffers protect agricultural operations from nuisance complaints.*

Forestland

Forestlands in the County are fundamental and vital part of the County's character, and are a productive use of large tracts of rugged terrain. Forestland provides numerous recreational activities and plays an important role in tourism. Not only are forestlands important for economic perspective, but a wildlife habitat. Forestry should



remain an important land use for the future, and County policies should seek to protect and preserve forest interests.

Policies for Forestland

1. *Forestry Preservation: Investigate land use policies that will ensure contiguous tracts of forestland are preserved to ensure forest for economic, tourism, recreation activities, and wildlife habitation.*
2. *Forestry activities should be conducted in accordance with Forestry Best Management Practices (BMP) to prevent adverse impacts such as erosion and siltation on watersheds.*
3. *Forestral Operations: Ensure flexible but effective siting standards for forest operations, including but not limited to saw mills, lumber concentration yards, and trucking operations.*

Rural Residential

The rural areas of Franklin County outside of the built-up settlements will be a mix of agricultural and forestal uses interspersed with residential uses. Rural residential lots will support farm homes and individual single-family dwellings. Water and sewer typically will be provided by on-site well and septic systems. In general, development should be on side roads in order to preserve the open character and safety of County roads by reducing the number of public access points. Developers or residents in these areas should not expect public facilities or utilities to be constructed for their benefit.

Manufactured housing constitutes large part of available affordable housing stock. Manufactured housing parks should be well designed, with interior service roads and coordinated access points onto state roads.

Policies for Rural Residential

1. *Encourage private roads in rural residential development to meet state standards.*
2. *Proposed subdivisions should be served by internal streets that connect to existing rural roads to avoid strip development and to minimize individual driveway access along existing collector highways.*
3. *All building lots fronting on state maintained roads in rural areas should be laid out to minimize the stacking of access points.*



4. *Roads that are not built to state standards and that are not eligible for inclusion in the state highway system should have mandatory provisions for the establishment of associations that provide for maintenance by lot owners.*
5. *Cluster development in new subdivisions should be encouraged to preserve land area to be devoted to open space, active recreation, preservation of environmentally sensitive areas, or agriculture.*
6. *Streets within subdivisions shall be designed to provide interconnections to adjacent vacant land for future subdivision access and circulation.*
7. *Building setbacks on primary and secondary roadways should be increased and natural vegetation along the roadways should be retained/established as a means of preserving the rural roadscape.*
8. *Existing subdivision and zoning ordinances shall be reviewed and the current policy for by right subdivisions in A1 zones which allows 35,000 square foot lots needs to be reconsidered.*

ZONING ORDINANCE:

Special Uses for the A-1 District are set forth in Sec. 25-179. The requested use is referenced as "Recreational facilities (private)", Summer Camp, Campground (Private) and "Motels, Hotels, Tourist and Resort Facilities". Section 25-155 also sets specific standards for the campground use. Short-term tourist rentals of dwelling is also implied as a part of this request due to the nature of the use of "Motels, Hotels, Tourist and Resort Facilities".

Sec. 25-638 of the Zoning Ordinance sets forth the County's authority to issue special use permits for certain uses. The ordinance states that, in order to issue a special use permit, the Board of Supervisors must find that "*such use will not be of substantial detriment to adjacent property, that the character of the zoning district will not be changed thereby, and that such use will be in harmony with the purpose and intent of this chapter, with the uses permitted by-right in the zoning district, with additional regulations provided in sections 25-111 through 25-137, supplemental regulations, and amendments, of this chapter, and with the public health, safety, and general welfare.*"

Sec. 25-640 of the Zoning Ordinance sets forth the County's authority to impose conditions for the issuance of special use permits. The ordinance states that the Board of Supervisors "*may impose upon any such permit such conditions relating to the use for which such permit is granted as it may deem necessary in the public interest...*" Conditions associated with a special use permit must be related to the particular land use which required the permit, and must be related to some impact generated by or associated with such land use.



Sec. 25-641 of the Zoning Ordinance states that a special use permit shall expire eighteen (18) months from the date of issuance if “*no commencement of use, structure or activity has taken place.*” The ordinance states that “commencement” shall consist of “extensive obligations or substantial expenditures in relation to the project,” including engineering, architectural design, land clearing, and/or construction.

ANALYSIS:

In accordance with Section 25-638 of the Zoning Ordinance, the proposed special use permit is being evaluated to determine if these uses will be substantial detriment to adjacent properties, whether the character of the zoning district will be changed thereby, and that such uses will be in harmony with the purpose and intent of this chapter, with the uses permitted by-right in the zoning district, with additional regulations provided in sections 25-111 through 25-137, supplemental regulations, and amendments, of this chapter, and with the public health, safety, and general welfare. Review of the proposed uses does identify potential impacts in the following areas to be addressed:

Transportation

The existing entrance to the property is located on Edwardsville Road (Rte. 635). The entrance is graveled and approximately eighteen (18) feet in width. The application indicates that there is sufficient sight distance at the existing entrance; 995 feet to the north, 813 feet to the south. The applicant is planning to upgrade the entrance to the property on Edwardsville Road to meet VDOT entrance requirements. This would likely require a 30-50 foot wide paved apron to be installed. Current speed limit on Route 635 is 55 mph.

The Edwardsville Road entrance will be the primary entrance for all activities proposed in this petition for special use permit. A secondary entrance is available on Daylilly Lane (private) and is proposed to be used for service deliveries and emergency access. The anticipated traffic generation for the proposed activities is difficult to ascertain however, planning staff has attempted to make a determination based on the estimates given in the SUP narrative. This narrative estimates 300 campers per week during summer months and 250 motocross users or spectators resulting in approximately 35 users per month at full build-out. In addition it is anticipated that there will be users of the cabins approximately 3-4 days per week (25 cabins @ 4 days/week) totaling 100 users/week. It is estimated that the full build-out of the site under this requested special use permit could be 100-125 vehicle trips per day on a peak day. This would create a 19.5% increase in the existing traffic counts over the current traffic count on Edwardsville Road. Traffic from the motocross facility is expected to be on weekends throughout the year and also weekdays during fall and winter. Camp traffic is expected to peak on Mondays and



Thursdays (drop off and pick up days) during summer months. Cabin use and rentals is expected throughout the year. Service deliveries are also expected throughout the year but heaviest during summer months. This amount of traffic is significantly more than a single-family dwelling or other rural residential uses but can be reasonably accommodated on the existing state maintained road.

Density

The Comprehensive Plan identifies the future land use for this area as Agriculture/Forestry/Rural Residential. The proposed uses do not exceed the rural residential densities of 1-2 units/acre however, the proposed uses of the property do have the potential to generate significant increases in activity and use of the property for short-term rental, camping and recreational uses. It is important that the proposed uses can be built and operated in such a way that is not a substantial detriment to adjoining properties and do not negatively impact the health, safety and welfare of the citizens of Franklin County. It may be desirable to reduce the overall density until impacts can be adequately determined.

Water and Sewer

Water and sewer upgrades will be required for both the summer camp facilities and activities as well as use of cabin facilities. The site will be served by private water and private sewer. It has not been determined if the site will be served by a private community water system or individual wells. Septic facilities will be required for all cabins and bath house/kitchen facilities. Primitive camping associated with motocross is currently offered on site but no septic facilities are proposed for this use. The petitioner shall be required to identify all proposed uses and provide detailed engineering reports. The Virginia Department of Health will make the final determination on water and sewer system requirements.

Erosion and Sediment Control and Storm Water Management

The proposed use of the property will require review and approval under the erosion and sediment control and storm water management regulations. The petitioner indicates that the property will remain largely in its natural, wooded state however there will be some minor clearing of trees in the area of the twenty-four (24) planned cabins, forty (40) hogans and motocross track/trails. The intention is that newly constructed facilities including septic drainfields would be constructed primarily in existing open pastures. Motocross facilities shall be constructed and maintained so as to not increase runoff and sedimentation of adjacent streams. However, an active permit will be required for the motocross trails/track due to bare soil. Development plans should be developed for all phases to ensure compliance with local and State regulations.



Public Safety

The use of the property for motocross training/practice does present safety concerns related to biker safety. The use of the summer camp and cabin rentals does present additional concerns for health and safety of visitors on-site. Finally, the presence of the various users on site also creates safety concerns related to fire, theft and potential undesirable behaviors from visitors. All of these potential safety concerns will result in additional burden to Red Valley Rescue Squad, Burnt Chimney Fire Department and Franklin County Sheriff's Office. The owner/operator should have an emergency response plan on file to handle personal injury, fire and other potential safety issues on site including gas/oil spills on the property and communicate this to appropriate agencies.

Noise

Noise is another concern related primarily to the proposed use of the motocross practice/training facility. Noise from the motocross bikes can be a nuisance to neighboring property owners especially if the sound emission of bikes is not controlled with mufflers or other silencers. The number of bikes allowed to use the track at any one time and hours of operation can also contribute to noise pollution concerns in surrounding area. The special use permit narrative has suggested hours of operation to be 10 am-5pm during the fall and winter months and 9am-5pm during the spring and summer (primarily weekends). The noise impact of the bikes can be mitigated or reduced through conditions/restrictions but will not be entirely eliminated.

Staff believes that the subject property is generally appropriate for very small-scale, limited recreational and tourist facilities. The tract is relatively large and wooded, with varied topography and scenic vistas. The property is not part of a residential subdivision. There will be no development in sensitive wetland areas or floodplain.

RECOMMENDATION:

The Planning Commission held a public hearing on this request on October 13, 2015. After closing the public hearing, the Commission voted to table the request until November 10, 2015 to allow the Commission members and staff time to review new information that was submitted at the meeting. Also, the Planning Commission directed staff to work with the applicant to develop conditions related to noise, buffering and RV camping concerns.

Staff recommends that the granting of a Special Use Permit for this property be accompanied by conditions intended to mitigate any anticipated off-site impacts to the surrounding properties and preserve existing natural site surroundings that will ensure



that the development is and continues to be an amenity to the area and County: the conditions recommended prior to the November 10, 2015 Planning Commission are listed in the recommendation below. The Board of Supervisors may attach additional conditions as deemed necessary as a result of the public hearings if they should choose to approve the requested Special Use permit(s).

1. Substantial conformity. The property shall be developed in substantial conformity with the conceptual plan dated 10/28/2015, entitled "Phelps Farm," and narrative, entitled "Phelps Farm Narrative for Special Use Permit", consisting of pages 1-4, prepared by Hill Studio.

2. Limitation of Use. The use of "Recreational Facilities (private)", "Summer Camp", "Campground (Private)", and "Motels, Hotels, Tourist and Resort Facilities" shall be limited to a recreational motocross practice/training facility (no racing) and associated facilities, private campground with cabins for youth summer camp and associated facilities, tourist facility for adult retreats consisting of a campground and ten (10) self-contained cabins for overnight and/or short-term lodging and associated facilities, including walking trails and outdoor activity areas in conformance with conceptual plan and narrative referenced in #1 above.

3. Buffering. The use of "Recreational facilities (private)", "Summer Camp", "Campground (Private)" and "Motels, Hotels, Tourist and Resort Facilities" shall require the perpetual maintenance of the existing wooded buffer along the exterior perimeter property line of all parcels as shown on the Conceptual Plan dated 10/28/2015, and shall measure a minimum of not less than one hundred feet (100') in depth, as measured perpendicular to the property line. Removal of dead or diseased trees shall be permitted. No trail shall be located within the 100-foot buffer.

4. Noise:

- a. No motocross racing shall be permitted on the subject property.
- b. All bikes using the property shall have proper mufflers or other silencers to reduce noise impacts on adjoining properties.
- c. No more than 230 motocross bikes shall be allowed to practice/train on the trails and motocross track at one time to maintain acceptable noise standards. The number of allowable motorcycles is determined by an acoustic professional based on the Housing and Urban Development (HUD) recommended acceptable sound level of 65 dBA Leq for residential areas as established in the Environmental Standards and Criteria set forth in Title 24 Code of Federal Regulation, Part 51.



A temporary event permit shall be applied for by property owner and approved by the Franklin County Zoning Administrator in accordance with Franklin County Zoning Section 25-134 (defining the event type, duration, attendance expectations, parking, traffic control, and sanitation and safety provisions) for an occasional increase in the number of allowable motocross bikes.

- d. Hours of operation for the recreation facility, private shall be limited to 10am-5pm. In addition, use of the recreation facility, private and summer camp shall not occur concurrently. However, motocross training shall be permitted as an activity during the youth summer camp.
- e. No trails shall be located closer than 100 feet to the property line. New trails on sloping topography shall be sited such that they are below natural grade to assist in suppressing sound levels from the motocross bikes.
- f. The motocross training track shall be designed to include supplemental plantings and earthen berms in accommodating track curves to assist in absorbing noise and in managing storm water runoff. These provisions shall be designed during development of the grading plan, and approved by the Zoning Administrator as part of site development review.

5. Compliance with State Regulations:

- a. All overnight use of the property and public gatherings shall be approved by the Virginia Department of Health to ensure compliance with respect to water supply, waste disposal and food service and preparation.
- b. The existing entrance on Edwardsville Road (Rte. 635) shall be improved to meet VDOT standards and requirements prior to any use authorized by this special use permit.
- c. No gasoline or oil products shall be stored on the subject property without the approval of VA Department of Environmental Quality and/or Franklin Building Official.

Each phase of development shall have an approved development plan detailing all land disturbing activities and storm water management.

6. Operations Manuals: The property owner shall develop an emergency operations manual for the property that details protocols for fires, bodily injuries, theft, special events and hazardous material incidents on the subject property. The property owner shall also develop a manual defining rules and regulations concerning the uses approved under this special use permit. For example, rules for use of the motocross facility (age, noise, hours restrictions, safety equipment required, etc.) shall be stated therein. Both manuals



shall be submitted to the Zoning Administrator before commencing uses defined herein. The manual shall be amended as uses begin or are expanded.

7. Trash/Litter: All trash generated on the subject property shall be properly contained and secured on site until it can be picked up by licensed trash hauler or properly disposed at appropriate facility.

8. Access to the property from Daylilly Lane (private) shall be limited to private use by the property owner, service vehicles for the summer camp activities and emergency vehicles. This entrance shall be gated to limit use from public.

9. Sports-type lighting of the recreation facility, private shall not be allowed. Dusk to dawn lighting for security shall be permitted.

10. RV camping shall be allowed on the subject property in accordance with Franklin County Zoning Section 25-155, Campgrounds and Recreational Vehicle/Camper Areas.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission held a public hearing in consideration of this request on October 13, 2015. The matter was tabled and further considered at its November 10, 2015, meeting. By vote of 4-2-1 (Webb & Law opposed; Mitchell absent) the Planning Commission **denied** the above request for a Special Use Permit.

The Planning Commission determined the request did not meet the requirements for issuance of a special use permit found in Section 25-638 of the Franklin County Code and recommends that the Board of Supervisors deny this request for Special Use Permit.



SUGGESTED MOTIONS:

The following suggested motions are sample motions that may be used. They include language found in Section 15.2-2283, Purpose of zoning ordinances of the Code of Virginia of 1950, as amended.

- 1) (APPROVE) I find that the proposal will not be of substantial detriment to adjacent property, that the character of the projected future land use of the community will not be adversely impacted, that such use will be in harmony with the purpose and intent of the zoning ordinance and with the public health, safety and general welfare. Therefore I move to recommend approval of the petitioner's request for a Special Use Permit for "Recreational Facilities (private)", "Summer Camp", "Campground (Private)", and "Motels, Hotels, Tourist and Resort Facilities", in accordance with Sec. 25-179 of the Zoning Ordinance, with the conditions as recommended in the staff memorandum.

OR

- 2) (DENY) I find that the proposal is of substantial detriment to adjacent property and that such use will not aid in the creation of a convenient, attractive, or harmonious community. Therefore I move to recommend to deny the request for the Special Use Permit.

OR

- 3) (DELAY ACTION) I find that the required information for the submitted petition is incomplete. Therefore I move to delay action until all necessary materials are submitted to the Board of Supervisors.

STATE OF VIRGINIA:

BEFORE THE BOARD OF SUPERVISORS OF FRANKLIN COUNTY:

RECOMMENDATION:

A request for a special use permit for "Recreational Facilities (Private)", "Summer Camp", "Campground (Private)" and "Motels, Hotels, Tourist and Resort Facilities (Private)" on an approximately +/- 185 total acre parcel located at 5076 Edwardsville Road in the Boone District of Franklin County, identified and recorded as Tax Map # 11 Parcels # 33.2, 33, 3.2B and 31 in the Franklin County Real Estate Tax Records.

TO THE HONORABLE SUPERVISORS OF FRANKLIN COUNTY:

WHEREAS, the **petitioner, Julie L. Phelps**, has filed with the Secretary of the Planning Commission a petition requesting a special use permit for "Recreational Facilities (Private)", "Summer Camp", "Campground (Private)" and "Motels, Hotels, Tourist and Resort Facilities (Private)"

WHEREAS, the petition was referred to the Planning Commission on October 13, 2015 and November 10, 2015 and to the Board of Supervisors on December 15, 2015, which after due legal notice as required by Section 15.2-2204 and Section 15.2-2205 of the Code of Virginia of 1950, as amended, was held on October 13, 2015 and November 10, 2015; and

WHEREAS, at that public hearing all parties in interest were afforded an opportunity to be heard; and

WHEREAS, the Planning Commission after due consideration, does have a recommendation for the Board of Supervisors.

For the petitioner of Julie L. Phelps, Petitioner/Owners; Case # SPEC-9-15-14745

NOW THEREFORE, be it resolved, that the Planning Commission does have a recommendation to the Franklin County Board of Supervisors for the above-referenced parcel(s) of land and the Petitioner/Owner(s), regarding the Special use permit for "Recreational Facilities (Private)", "Summer Camp", "Campground (Private)" and "Motels, Hotels, Tourist and Resort Facilities (Private)".

The above action was a motion to deny by Mr. Jim Colby, representative for the Gills Creek District. The motion was seconded by, Mr. C.W. Doss, representative for the Blue Ridge District of Franklin County. The motion was a majority as written above upon the following vote:

AYES: McGhee, Doss, Ralph, Colby

NAYES: Law, Webb

ABSTAIN:

ABSENT: Mitchell

 Clerk

Franklin County Planning Commission

11/16/15 Date

MEMORANDUM
Case # SPEC-9-15-14745



To: Franklin County Board of Supervisors
From: Franklin County Planning Commission
Date: December 15, 2015
Tax #s: 11-3.2b,31,33 & 33.2
District: Boone District
Applicant: Julie L. Phelps
Owners: Julie L. Phelps

REQUEST:

Petition of **Julie L. Phelps, Petitioner/Owner** requesting a Special Use Permit for "Recreational Facilities (Private), Summer Camp, Campground (Private), and Motels, Hotels, Tourist and Resort Facilities" for a +/- 185 acre parcels of land, located on 5076 Edwardsville Road in the Boone District of Franklin County, and further identified by Franklin County Real Estate records as Tax Map/Parcel #0110003302, 0110003300, 0110000302b, 0110003100. The subject property is zoned A-1, Agricultural District, which allows a maximum residential density of 1.25 dwelling units per acre. The Future Land Use Map of the Franklin County Comprehensive Plan identifies this area as appropriate for Agriculture Forestry/Rural Residential uses, with an anticipated residential density of one to two dwelling units per acre. The subject property currently has a residential density of approximately 0.01 dwelling units per acre. This petition would result in the location of twenty-four (24) additional cabins and forty (40) Hogan camping locations, with a resulting residential density of 0.36 dwelling units per acre. (Case # SPEC-9-15-14745)

RECOMMENDATION:

The Planning Commission held a public hearing in consideration of this request on October 13, 2015. The matter was tabled and further considered at its November 10, 2015, meeting. By vote of 4-2-1 (Webb & Law opposed; Mitchell absent) the Planning Commission **denied** the above request for a Special Use Permit.

The Planning Commission determined the request did not meet the requirements for issuance of a special use permit found in Section 25-638 of the Franklin County Code and recommends that the Board of Supervisors deny this request for Special Use Permit.

**STAFF REPORT**
BACKGROUND:

The petitioner requests a Special Use Permit for “Recreational facilities (private)”, “Summer Camp”, “Campground (Private)”, and “Motels, Hotels, Tourist and Resort Facilities” for the 185+/- acre property surrounding the applicant’s home on Edwardsville Road in Boone District. There are a number of structures on the property; the Phelps’s home, barns and one existing cabin. Julie Phelps’s has been involved with motocross activities as her children have grown up and would like to offer a place for others to practice and train on her property. The use is classified as “Recreational facilities (private)” since she would be providing facilities related directly to outdoor recreation for motocross training and practice. She would also like to conduct a ministry summer camp for youth that could be expanded over time to include an adult retreat ministry. This proposal entails uses classified as “Summer Camp”, “Campground” and “Motels, Hotels, Tourist and Resort Facilities”. The camp facilities for youth summer camp would operate primarily during summer months however, the adult retreat ministry would provide meeting areas, teaching and counseling that would be conducted over weekends or periods of several days, involving overnight stays. The facility would offer outdoor amenities to be used in conjunction with the counseling services including walking trails, zip lines and natural areas. Further explanation of the proposal can be found in document entitled, “Phelps Farm Narrative for Special Use Permit” dated September 8, 2015. The applicant has also submitted a conceptual plan entitled “Phelps Farm” prepared by Hill Studio and dated September 8, 2015. Additional information about the proposed uses can also be found at the following links: <https://vimeo.com/139518086>; <https://www.facebook.com/PhelpsFarmOffroadDirtbikePracticeTrackAndTrails>; and http://www.riderplanet-usa.com/atv/trails/info/virginia_15118/ride_c9fd.htm In order to allow any “Recreational facilities (private)”, “Summer Camp”, “Campground” and “Motels, Hotels, Tourist and Resort Facilities”, a Special Use Permit is required to be issued by the Board of Supervisors under Section 25-179 of the County Code.

The aerial view of the parcel shows the rural agricultural and low density residential nature of the area, characterized by scattered dwellings among open fields and wooded lands. The area is served by individual wells and septic systems. Edwardsville Road [SR 635], fronting the property is a public road; the property contains over one hundred and eighty-five acres and has approximately 220’ of frontage. See attached maps.

During the Development Review Team (DRT) meeting where the application was reviewed, Staff received comments from Public Works, Planning, VDOT, and the Virginia Dept. of Health.

The application was advertised, posted, and notifications sent to all adjacent property owners. As of the date the staff report was finalized, this proposal has generated several inquiries from the public and requests for copies of the application from neighboring property owners. A variety of opinions, including concerns about traffic, property values and noise, were generated by the public. Some letters, emails and phone calls have been



received by staff regarding this request. Additional comments and concerns may be raised as a result of the public hearings. The property owner conducted a neighborhood meeting at her home on September 22, 2015. A summary of the meeting has been provided by the Petitioner and is attached to this report.

SITE STATISTICS:

Location: 5076 Edwardsville Road, in the Boone District
Size: +/- 185 acres
Existing Land Use: Agricultural, Low Density Residential
Adjoining Zoning: A1, Agricultural District
Adjoining Land Uses: Residential, Agriculture, Vacant Wooded
Adj. Future Land Uses: Low Density Residential

COMPREHENSIVE PLAN:

This property is designated in the 2025 Comprehensive Plan as Agricultural/Forestry/Rural Residential according to the Future Land Use Map. The proposed project is located on 185 acres and the proposed residential density is 0.36 dwelling units per acre; which is below the maximum residential density of 1.25 dwelling units per acre. The comprehensive plan supports the development of the property with strong conditions concerning the forested land which buffers adjoining property lines and existing residential properties across Edwardsville Road. Even though the residential density is below the maximum, conditions to address the amount of housing units and campers proposed on this project should be considered. Below are excerpts from the 2025 Comprehensive Plan that are applicable to this property and proposed uses.

Farmland

Farmland constitutes the rural nature of the County. The agricultural industry in Franklin County is experiencing a transitional period. Dairy farms are consolidating and the tobacco industry is in decline. However, a segment of the community remains dedicated to the agricultural way of life and it is desirable to protect a certain amount of agricultural land.

At present, low density residential development occurs by right in agriculturally zoned areas. These developments have inadequate buffers, agricultural and forestal operations are potentially incompatible with new residential land use.



Policies for Farmland

1. *Design residential development to add open space between residential and agricultural uses so that each is adequately buffered from the other.*
2. *Farmland Preservation: Provide incentives to discourage the conversion of active agricultural land to other uses through continued use value assessment and taxation. Investigate the use of State of Virginia purchase of development rights, transfer development rights, and other measures for farmland preservation.*
3. *Agribusiness: Support and encourage both temporary and ongoing agribusiness activities on farms that contribute to their continuing economic operation. Ensure flexible siting standards to permit the location and continuation of agribusiness that support or are a part of the agricultural and forestal economy.*
4. *Conservation of Farmland: Where development occurs in identified agricultural conservation areas, use flexibility in regulations to permit new development to locate on sites that minimize interference with agricultural operations.*
5. *Soil and Water Conservation: Encourage agricultural policies to protect and preserve soil and water quality.*
6. *Watershed Conservation: Encourage the combination of agricultural-oriented technical and financial assistance programs with watershed management programs to identify and prioritize problems areas and to improve conservation measures.*
7. *Nutrient Management Plans: Promote Best Management Practice (BMP) for agriculture to minimize nutrient run-off in Franklin County.*
8. *The burden of providing buffers between the uses should be on the new residential development. Such buffers protect agricultural operations from nuisance complaints.*

Forestland

Forestlands in the County are fundamental and vital part of the County's character, and are a productive use of large tracts of rugged terrain. Forestland provides numerous recreational activities and plays an important role in tourism. Not only are forestlands important for economic perspective, but a wildlife habitat. Forestry should remain an important land use for the future, and County policies should seek to protect and preserve forest interests.



Policies for Forestland

1. *Forestry Preservation: Investigate land use policies that will ensure contiguous tracts of forestland are preserved to ensure forest for economic, tourism, recreation activities, and wildlife habitation.*
2. *Forestry activities should be conducted in accordance with Forestry Best Management Practices (BMP) to prevent adverse impacts such as erosion and siltation on watersheds.*
3. *Forestal Operations: Ensure flexible but effective siting standards for forest operations, including but not limited to saw mills, lumber concentration yards, and trucking operations.*

Rural Residential

The rural areas of Franklin County outside of the built-up settlements will be a mix of agricultural and forestal uses interspersed with residential uses. Rural residential lots will support farm homes and individual single-family dwellings. Water and sewer typically will be provided by on-site well and septic systems. In general, development should be on side roads in order to preserve the open character and safety of County roads by reducing the number of public access points. Developers or residents in these areas should not expect public facilities or utilities to be constructed for their benefit.

Manufactured housing constitutes large part of available affordable housing stock. Manufactured housing parks should be well designed, with interior service roads and coordinated access points onto state roads.

Policies for Rural Residential

1. *Encourage private roads in rural residential development to meet state standards.*
2. *Proposed subdivisions should be served by internal streets that connect to existing rural roads to avoid strip development and to minimize individual driveway access along existing collector highways.*
3. *All building lots fronting on state maintained roads in rural areas should be laid out to minimize the stacking of access points.*
4. *Roads that are not built to state standards and that are not eligible for inclusion in the state highway system should have mandatory provisions for the establishment of associations that provide for maintenance by lot owners.*
5. *Cluster development in new subdivisions should be encouraged to preserve land area to be devoted to open space, active recreation, preservation of environmentally sensitive areas, or agriculture.*
6. *Streets within subdivisions shall be designed to provide interconnections to adjacent vacant land for future subdivision access and circulation.*
7. *Building setbacks on primary and secondary roadways should be increased and natural vegetation along the roadways should be retained/established as a means of preserving the rural roadscape.*



8. *Existing subdivision and zoning ordinances shall be reviewed and the current policy for by right subdivisions in A1 zones which allows 35,000 square foot lots needs to be reconsidered.*

ZONING ORDINANCE:

Special Uses for the A-1 District are set forth in Sec. 25-179. The requested use is referenced as “Recreational facilities (private)”, Summer Camp, Campground (Private) and “Motels, Hotels, Tourist and Resort Facilities”. Section 25-155 also sets specific standards for the campground use. Short-term tourist rentals of dwelling is also implied as a part of this request due to the nature of the use of “Motels, Hotels, Tourist and Resort Facilities”.

Sec. 25-638 of the Zoning Ordinance sets forth the County’s authority to issue special use permits for certain uses. The ordinance states that, in order to issue a special use permit, the Board of Supervisors must find that *“such use will not be of substantial detriment to adjacent property, that the character of the zoning district will not be changed thereby, and that such use will be in harmony with the purpose and intent of this chapter, with the uses permitted by-right in the zoning district, with additional regulations provided in sections 25-111 through 25-137, supplemental regulations, and amendments, of this chapter, and with the public health, safety, and general welfare.”*

Sec. 25-640 of the Zoning Ordinance sets forth the County’s authority to impose conditions for the issuance of special use permits. The ordinance states that the Board of Supervisors *“may impose upon any such permit such conditions relating to the use for which such permit is granted as it may deem necessary in the public interest...”* Conditions associated with a special use permit must be related to the particular land use which required the permit, and must be related to some impact generated by or associated with such land use.

Sec. 25-641 of the Zoning Ordinance states that a special use permit shall expire eighteen (18) months from the date of issuance if *“no commencement of use, structure or activity has taken place.”* The ordinance states that “commencement” shall consist of “extensive obligations or substantial expenditures in relation to the project,” including engineering, architectural design, land clearing, and/or construction.

ANALYSIS:

In accordance with Section 25-638 of the Zoning Ordinance, the proposed special use permit is being evaluated to determine if these uses will be substantial detriment to adjacent properties, whether the character of the zoning district will be changed thereby, and that such uses will be in harmony with the purpose and intent of this chapter, with the uses permitted by-right in the zoning district, with additional regulations provided in sections 25-111 through 25-137, supplemental regulations, and amendments, of this



chapter, and with the public health, safety, and general welfare. Review of the proposed uses does identify potential impacts in the following areas to be addressed:

Transportation

The existing entrance to the property is located on Edwardsville Road (Rte. 635). The entrance is graveled and approximately eighteen (18) feet in width. The application indicates that there is sufficient sight distance at the existing entrance; 995 feet to the north, 813 feet to the south. The applicant is planning to upgrade the entrance to the property on Edwardsville Road to meet VDOT entrance requirements. This would likely require a 30-50 foot wide paved apron to be installed. Current speed limit on Route 635 is 55 mph.

The Edwardsville Road entrance will be the primary entrance for all activities proposed in this petition for special use permit. A secondary entrance is available on Daylilly Lane (private) and is proposed to be used for service deliveries and emergency access. The anticipated traffic generation for the proposed activities is difficult to ascertain however, planning staff has attempted to make a determination based on the estimates given in the SUP narrative. This narrative estimates 300 campers per week during summer months and 250 motocross users or spectators resulting in approximately 35 users per month at full build-out. In addition it is anticipated that there will be users of the cabins approximately 3-4 days per week (25 cabins @ 4 days/week) totaling 100 users/week. It is estimated that the full build-out of the site under this requested special use permit could be 100-125 vehicle trips per day on a peak day. This would create a 19.5% increase in the existing traffic counts over the current traffic count on Edwardsville Road. Traffic from the motocross facility is expected to be on weekends throughout the year and also weekdays during fall and winter. Camp traffic is expected to peak on Mondays and Thursdays (drop off and pick up days) during summer months. Cabin use and rentals is expected throughout the year. Service deliveries are also expected throughout the year but heaviest during summer months. This amount of traffic is significantly more than a single-family dwelling or other rural residential uses but can be reasonably accommodated on the existing state maintained road.

Density

The Comprehensive Plan identifies the future land use for this area as Agriculture/Forestry/Rural Residential. The proposed uses do not exceed the rural residential densities of 1-2 units/acre however, the proposed uses of the property do have the potential to generate significant increases in activity and use of the property for short-term rental, camping and recreational uses. It is important that the proposed uses can be built and operated in such a way that is not a substantial detriment to adjoining properties and do not negatively impact the health, safety and welfare of the citizens of Franklin County. It may be desirable to reduce the overall density until impacts can be adequately determined.

Water and Sewer

Water and sewer upgrades will be required for both the summer camp facilities and activities as well as use of cabin facilities. The site will be served by private water and



private sewer. It has not been determined if the site will be served by a private community water system or individual wells. Septic facilities will be required for all cabins and bath house/kitchen facilities. Primitive camping associated with motocross is currently offered on site but no septic facilities are proposed for this use. The petitioner shall be required to identify all proposed uses and provide detailed engineering reports. The Virginia Department of Health will make the final determination on water and sewer system requirements.

Erosion and Sediment Control and Storm Water Management

The proposed use of the property will require review and approval under the erosion and sediment control and storm water management regulations. The petitioner indicates that the property will remain largely in its natural, wooded state however there will be some minor clearing of trees in the area of the twenty-four (24) planned cabins, forty (40) hogans and motocross track/trails. The intention is that newly constructed facilities including septic drainfields would be constructed primarily in existing open pastures. Motocross facilities shall be constructed and maintained so as to not increase runoff and sedimentation of adjacent streams. However, an active permit will be required for the motocross trails/track due to bare soil. Development plans should be developed for all phases to ensure compliance with local and State regulations.

Public Safety

The use of the property for motocross training/practice does present safety concerns related to biker safety. The use of the summer camp and cabin rentals does present additional concerns for health and safety of visitors on-site. Finally, the presence of the various users on site also creates safety concerns related to fire, theft and potential undesirable behaviors from visitors. All of these potential safety concerns will result in additional burden to Red Valley Rescue Squad, Burnt Chimney Fire Department and Franklin County Sheriff's Office. The owner/operator should have an emergency response plan on file to handle personal injury, fire and other potential safety issues on site including gas/oil spills on the property and communicate this to appropriate agencies.

Noise

Noise is another concern related primarily to the proposed use of the motocross practice/training facility. Noise from the motocross bikes can be a nuisance to neighboring property owners especially if the sound emission of bikes is not controlled with mufflers or other silencers. The number of bikes allowed to the use the track at any one time and hours of operation can also contribute to noise pollution concerns in surrounding area. The special use permit narrative has suggested hours of operation to be 10 am-5pm during the fall and winter months and 9am-5pm during the spring and summer (primarily weekends). The noise impact of the bikes can be mitigated or reduced through conditions/restrictions but will not be entirely eliminated.

Staff believes that the subject property is generally appropriate for very small-scale, limited recreational and tourist facilities. The tract is relatively large and wooded, with



varied topography and scenic vistas. The property is not part of a residential subdivision. There will be no development in sensitive wetland areas or floodplain.

Staff recommends that the granting of a Special Use Permit for this property be accompanied by conditions intended to mitigate any anticipated off-site impacts to the surrounding properties and preserve existing natural site surroundings that will ensure that the development is and continues to be an amenity to the area and County, and. These are listed in the recommendation below. The Planning Commission and/or Board of Supervisors may attach additional conditions as deemed necessary as a result of the public hearings.

1. Substantial conformity. The property shall be developed in substantial conformity with the conceptual plan dated 10/28/2015, entitled "Phelps Farm," and narrative, entitled "Phelps Farm Narrative for Special Use Permit", consisting of pages 1-4, prepared by Hill Studio.

2. Limitation of Use. The use of "Recreational Facilities (private)", "Summer Camp", "Campground (Private)", and "Motels, Hotels, Tourist and Resort Facilities" shall be limited to a recreational motorcross practice/training facility (no racing) and associated facilities, private campground with cabins for youth summer camp and associated facilities, tourist facility for adult retreats consisting of a campground and ten (10) self-contained cabins for overnight and/or short-term lodging and associated facilities, including walking trails and outdoor activity areas in conformance with conceptual plan and narrative referenced in #1 above.

3. Buffering. The use of "Recreational facilities (private)", "Summer Camp", "Campground (Private)" and "Motels, Hotels, Tourist and Resort Facilities" shall require the perpetual maintenance of the existing wooded buffer along the exterior perimeter property line of all parcels as shown on the Conceptual Plan dated 10/28/2015, and shall measure a minimum of not less than one hundred feet (100') in depth, as measured perpendicular to the property line. Removal of dead or diseased trees shall be permitted. No trail shall be located within the 100-foot buffer.

4. Noise:

- a. No motocross racing shall be permitted on the subject property.
- b. All bikes using the property shall have proper mufflers or other silencers to reduce noise impacts on adjoining properties.
- c. No more than 284 motocross bikes shall be allowed to practice/train on the trails and motocross track at one time to maintain acceptable noise standards. The number of allowable motorcycles is determined by an acoustic professional based on the Housing and Urban Development (HUD) recommended acceptable sound level of 65 dBA Leq for residential areas as established in the Environmental Standards and Criteria set forth in Title 24 Code of Federal Regulation, Part 51.

A temporary event permit shall be applied for by property owner and approved by the Franklin County Zoning Administrator in accordance with Franklin County Zoning Section 25-134 (defining the event type, duration, attendance expectations, parking, traffic control, and sanitation and safety provisions) for an occasional increase in the number of allowable motocross bikes.

- d. Hours of operation for the recreation facility, private shall be limited to 10am-5pm. In addition, use of the recreation facility, private and summer camp shall not occur concurrently. However, motocross training shall be permitted as an activity during the youth summer camp.
- e. No trails shall be located closer than 100 feet to the property line. New trails on sloping topography shall be sited such that they are below natural grade to assist in suppressing sound levels from the motocross bikes.



- f. The motocross training track shall be designed to include supplemental plantings and earthen berms in accommodating track curves to assist in absorbing noise and in managing storm water runoff. These provisions shall be designed during development of the grading plan, and approved by the Zoning Administrator as part of site development review.

5. Compliance with State Regulations:

- a. All overnight use of the property and public gatherings shall be approved by the Virginia Department of Health to ensure compliance with respect to water supply, waste disposal and food service and preparation.
- b. The existing entrance on Edwardsville Road (Rte. 635) shall be improved to meet VDOT standards and requirements prior to any use authorized by this special use permit.
- c. No gasoline or oil products shall be stored on the subject property without the approval of VA Department of Environmental Quality and/or Franklin Building Official.

Each phase of development shall have an approved development plan detailing all land disturbing activities and storm water management.

6. Operations Manuals: The property owner shall develop an emergency operations manual for the property that details protocols for fires, bodily injuries, theft, special events and hazardous material incidents on the subject property. The property owner shall also develop a manual defining rules and regulations concerning the uses approved under this special use permit. For example, rules for use of the motocross facility (age, noise, hours restrictions, safety equipment required, etc.) shall be stated therein. Both manuals shall be submitted to the Zoning Administrator before commencing uses defined herein. The manual shall be amended as uses begin or are expanded.

7. Trash/Litter: All trash generated on the subject property shall be properly contained and secured on site until it can be picked up by licensed trash hauler or properly disposed at appropriate facility.

8. Access to the property from Daylilly Lane (private) shall be limited to private use by the property owner, service vehicles for the summer camp activities and emergency vehicles. This entrance shall be gated to limit use from public.

9. Sports-type lighting of the recreation facility, private shall not be allowed. Dusk to dawn lighting for security shall be permitted.

10. RV camping shall be allowed on the subject property in accordance with Franklin County Zoning Section 25-155, Campgrounds and Recreational Vehicle/Camper Areas.

RECOMMENDATION:

The Planning Commission held a public hearing in consideration of this request on October 13, 2015. The matter was tabled and further considered at its November 10, 2015, meeting. By vote of 4-2-1 (Webb & Law opposed; Mitchell absent) the Planning Commission **denied** the above request for a Special Use Permit.

The Planning Commission determined the request did not meet the requirements for issuance of a special use permit found in Section 25-638 of the Franklin County Code and recommends that the Board of Supervisors deny this request for Special Use Permit.



SUGGESTED MOTIONS:

The following suggested motions are sample motions that may be used. They include language found in Section 15.2-2283, Purpose of zoning ordinances of the Code of Virginia of 1950, as amended.

- 1) (APPROVE) I find that the proposal will not be of substantial detriment to adjacent property, that the character of the projected future land use of the community will not be adversely impacted, that such use will be in harmony with the purpose and intent of the zoning ordinance and with the public health, safety and general welfare. Therefore I move to recommend approval of the petitioner's request for a Special Use Permit for "Recreational Facilities (private)", "Summer Camp", "Campground (Private)", and "Motels, Hotels, Tourist and Resort Facilities", in accordance with Sec. 25-179 of the Zoning Ordinance, with the conditions as recommended in the staff memorandum.

OR

- 2) (DENY) I find that the proposal is of substantial detriment to adjacent property and that such use will not aid in the creation of a convenient, attractive, or harmonious community. Therefore I move to recommend to deny the request for the Special Use Permit.

OR

- 3) (DELAY ACTION) I find that the required information for the submitted petition is incomplete. Therefore I move to delay action until all necessary materials are submitted to the Planning Commission.

September 8, 2015

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
5076 Edwardsville Road, Hardy, Virginia
Tax Map Parcels No. 0110003302, 0110003300, 0110000302B, and 0110003100

Honorable Members of the Planning Commission and Board of Supervisors:

Please find enclosed an application for a Special Use Permit for a motocross practice/training facility, summer camp, campground, and cabins on my 185-acre farm on Edwardsville Road, presently zoned A-1, Agricultural District, in the Boone Magisterial District. By developing these facilities, I hope to financially maintain my family and the farm; provide a recreational asset for the County that can be an economic draw for residents and visitors (using the existing dirt bike track and wooded bike trails on the property); add jobs for the community; help young people develop important leadership and activity skills; and further my interest in the ministry and community outreach.

I have given the facility concepts and site planning very careful thought and desire to maintain the natural amenities and overall forested integrity of the property, as well as the rural character of my community. I plan to phase development in order to accommodate estimated construction costs and necessary improvements for water, septic and internal road access. In addition to the Special Use Permit, I will comply with all Franklin County development regulations and with regulations administered by the Virginia Department of Health for water, sanitary systems, summer camps, and campgrounds. The existing farmhouse and outbuildings on the property will continue to serve as my family home. The proposed facilities will be located on the interior of the property, constructed mostly in open pastures, and will not be visible from Edwardsville Road or neighboring properties. The forested land on the property will remain undisturbed to the extent feasible, including the existing forested buffers at adjoining property lines. Primary access will be from Edwardsville Road.

I welcome the opportunity to talk further with you about my Special Use Permit Application. To supplement my application, I have included a short narrative that describes the proposed facilities and a professionally prepared Concept Master Plan. In addition, I have scheduled a meeting with my neighbors on September 22 to discuss my application.

Sincerely,



Julie L. Phelps

**FRANKLIN COUNTY
PETITION / APPLICATION FOR SPECIAL USE PERMIT**

I, **Julie Phelps**, am the Owner of the property described below. I hereby apply to the Franklin County Board of Supervisors for a special use permit on the property as described below:

1. Petitioners Name: **Julie L. Phelps**
2. Property Owner's Name: **Julie L. Phelps**
Phone Number: **540-890-8738**
Address: **5076 Edwardsville Road, Hardy, Virginia 24101**
3. Exact Directions to Property from Rocky Mount:
From Rocky Mount, take State Route 122 North (Booker T Washington Highway) past Burnt Chimney. Turn left onto State Route 634 (Harmony School Road) toward Hardy and continue to Edwardsville Road. Driveway is on right about 1.5 miles beyond Truman Hill Road.
4. Tax Map and Parcel Numbers:
Tax Parcels Nos. 0110003302, 0110003300, 0110000302B and 0110003100
5. Magisterial District: **Boone**
6. Property Information:
 - A. Size of Property: Approximately **185 acres**
 - B. Existing Zoning: **A1 - Agricultural District**
 - C. Existing Land Use: **Farm with two residential structures (house and cabin) and a number of barns and outbuildings, existing dirt bike track and wooded bike trails.**
 - D. Is property located within any of the following overlay zoning districts: **No**
__ Corridor District __ Westlake Overlay District __ Smith Mountain Lake Surface District
 - E. Is any land submerged under water or part of a lake? **No** If yes, explain.
7. Proposed Special Use Permit Information:
 - A. Proposed Land Use: **Private recreation facility, summer camp, campground, tourist resort facility and cabins**
 - B. Size of Proposed Use: **Full property, approx. 185 acres; see Concept Master Plan.**
 - C. Other Details of Proposed Use:
Proposed recreational facilities will be developed in phases. These will include motocross (dirt bike) track practice and training facility (no racing), dirt bike and nature trails, ministry summer camp for children, adult ministry retreat facilities, campground and cabins. The owner intends to live in the residential structure on the property and may use outbuildings in conjunction with the proposed facilities. All development will be in accordance with Franklin County Development Regulations and with the Virginia Department of Health.

Checklist for completed items:

- ☐ Application Form
- ☐ Letter of Application
- ☐ List of Adjoining Property Owners and Addresses
- ☐ Concept Plan
- ☐ Application Fee

I certify that this application for a special use permit and the information submitted herein is correct and accurate.

Petitioner's Name (Print): **Julie L. Phelps**

Signature of Petitioner: _____

Date: September 8, 2015

Mailing Address: **5076 Edwardsville Road, Hardy, Virginia 24101**

Telephone: **540-890-8738**

Owner's consent, if petitioner is not property owner:

Owner's Name (Print): **Julie L. Phelps**

Signature of Owner: _____ Not Applicable / Same as Applicant _____

Date: _____

Date Received by Planning Staff:

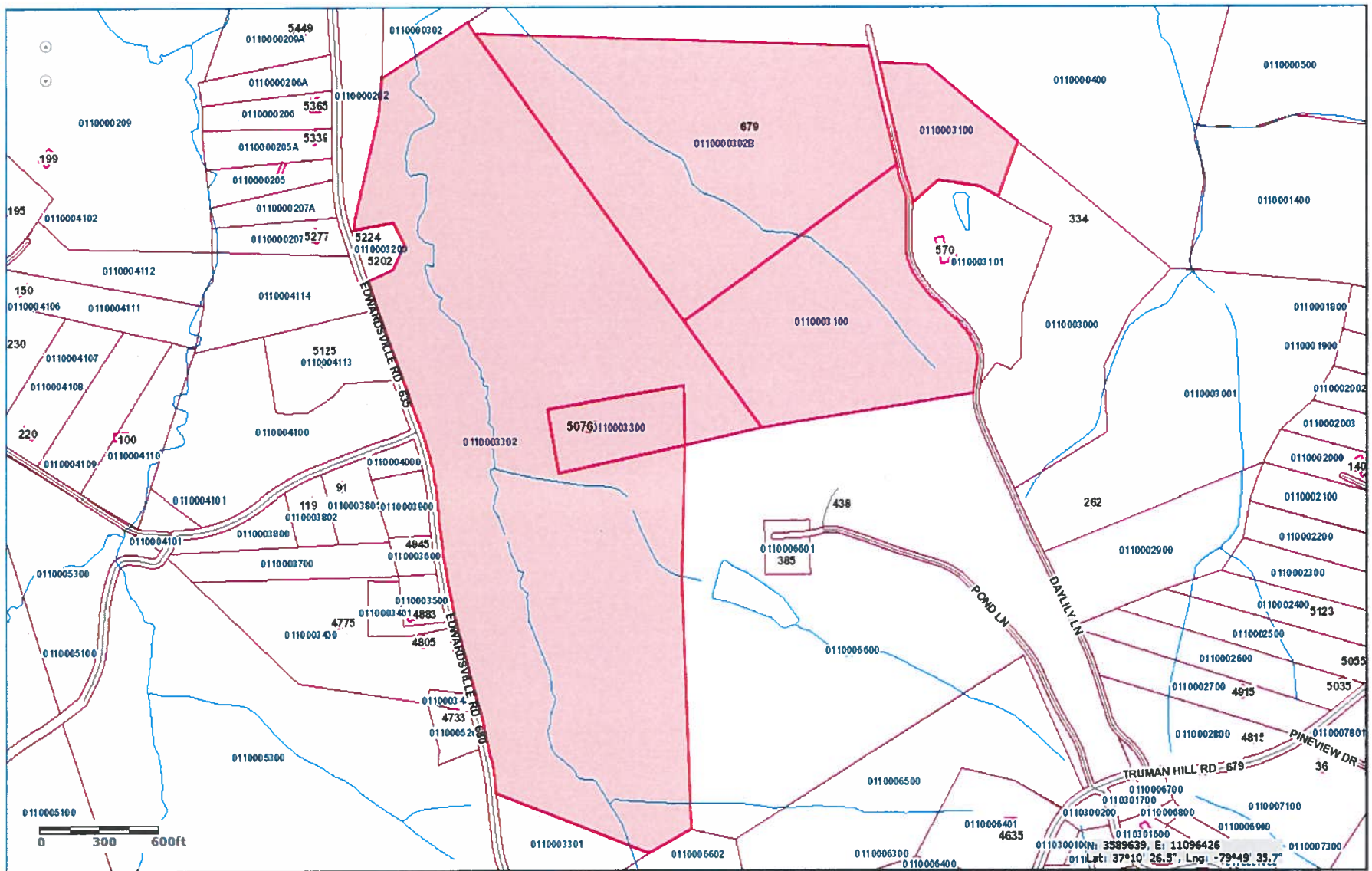
Time:

Clerk's Initials:

CHECK#:

RECEIPT#:

AMOUNT:



PHELPS PROPERTY – Franklin County Tax Map

ADJACENT PROPERTY OWNERS

Adjacent property owners are mailed a notice of the request. Please provide each owner's name and mailing address plus zip code for every property adjacent to the site and directly across from any public right-of-way adjoining the site. Names and addresses are available in the County Real Estate office in the Courthouse.

Properties Directly Adjoining Site:

Parcel ID: 0110000400

Map: 01100 Parcel: 00400
Owner: Sink, Robert E Jr.
5540 Edwardsville Road
Hardy, VA 24101

Parcel ID: 0110003101

Map: 01100 Parcel: 03101
Owner: Hughes, Earl B Jr & Linda C
570 Day Lilly Lane
Hardy, VA 24101

Parcel ID: 0110003000

Map: 01100 Parcel: 03000
Owner: Phillips, Roger Courtney Jr & Shannon Lorraine
334 Day Lily Lane
Hardy, VA 24101

Parcel ID: 0110006600

Map: 01100 Parcel: 06600
Owner: Harless, James Matthew
385 Pond Lane
Hardy, VA 24101

Parcel ID: 0110006602

Map: 01100 Parcel: 06602
Owner: Plybon, Calvin L & Juanita C
4374 Edwardsville Road
Hardy, VA 24101

Parcel ID: 0110003301

Map: 01100 Parcel: 03301
Owner: Young, Norman Ray & Barbara Dean
6630 Pendleton Drive
Roanoke, VA 24019

Parcel ID: 0110003200

Map: 01100 Parcel: 03200
Owner: Janney, David R & Angela W
5202 Edwardsville Road
Hardy, VA 24101

Parcel ID: 011000202

Map: 01100 Parcels: 00202
Owner: Smith, Muriel
C/O Smith Terry 312 Andover Lane Se
Cedar Rapids, IA 52403

Parcel ID: 011000302

Map: 01100 Parcels: 00302
Owner: Smith, Muriel
C/O Smith Terry 312 Andover Lane Se
Cedar Rapids, IA 52403

Adjacent Properties across Edwardsville Road:

Parcel ID: 011000209A

Map: 01100 Parcel: 00209A
Owner: Kingsbury, Dale & Lori Noell
5449 Edwardsville Road
Hardy, VA 24101

Parcel ID: 011000206A

Map: 01100 Parcel: 00206A
Owner: Hartman, Roy Edward & Deborah Rankins
3935 Bandy Road
Roanoke, VA 24014

Parcel ID: 011000206

Map: 01100 Parcel: 00206
Owner: Rankins, Robert E Jr & Susan
5365 Edwardsville Road
Hardy, VA 24101

Parcel ID: 011000205A

Map: 01100 Parcel: 00205A
Owner: Wilson, Joshua Monroe
5339 Edwardsville Road
Hardy, VA 24101

Parcel ID: 0110000205

Map: 01100 Parcel: 00205
Owner: Rankins, Terry L
5305 Edwardsville Road
Hardy, VA 24101

Parcel ID: 0110000207A

Map: 01100 Parcel: 00207A
Owner: Spencer, Gary L
380 Trails End Drive
Hardy, VA 24101

Parcel ID: 0110000207

Map: 01100 Parcel: 00207
Owner: Spencer, Gary L
380 Trails End Drive
Hardy, VA 24101

Parcel ID: 0110004114

Map: 01100 Parcel: 04114
Owner: Hellkamp, Paul G & Charlotte M
5125 Edwardsville Road
Hardy, VA 24101

Parcel ID: 0110004113

Map: 01100 Parcel: 04113
Owner: Hellkamp, Paul G & Charlotte M
5125 Edwardsville Road
Hardy, VA 24101

Parcel ID: 0110004100

Map: 01100 Parcel: 04100
Owner: Hellkamp, Paul G & Charlotte M
5125 Edwardsville Road
Hardy, VA 24101

Parcel ID: 0110004000

Map: 01100 Parcel: 04000
Owner: Leftwich, Franklin M & Mark Donald
5025 Edwardsville Road
Hardy, VA 24101

Parcel ID: 0110003900

Map: 01100 Parcel: 03900
Owner: Gordon, Mark III
1147 Harmony School Road
Hardy, VA 24101

Parcel ID: 0110003600

Map: 01100 Parcel: 03600
Owner: Bush, Judith C
4945 Edwardsville Road
Hardy, VA 24101

Parcel ID: 0110003500

Map: 01100 Parcel: 03500
Owner: Gray, Wayne Edward & Patricia Payne
4883 Edwardsville Road
Hardy, VA 24101

Parcel ID: 0110003401

Map: 01100 Parcel: 03401
Owner: Gray, Wayne E & Patricia P
4883 Edwardsville Road
Hardy, VA 24101

Parcel ID: 0110003400

Map: 01100 Parcel: 03400
Owner: Nelson, Roy D & Nancy L
4805 Edwardsville Road
Hardy, VA 24101

Parcel ID: 0110003402

Map: 01100 Parcel: 03402
Owner: Teague, Cindy Greer
4733 Edwardsville Road
Hardy, VA 24101

Parcel ID: 0110005200

Map: 01100 Parcel: 05200
Owner: Teague, Cindy Greer
4733 Edwardsville Road
Hardy, VA 24101

Parcel ID: 0110005300

Map: 01100 Parcel: 05300
Owner: Stone, Stephen Preston
1 Lancer Lane
Mt Pleasant, SC 29464

Phelps Farm Narrative for Special Use Permit

Property Location: 5076 Edwardsville Road, Hardy, Virginia 24101 (Boone District)

Tax Map Parcel Information: 0110003302, 0110003300, 0110000302B and 0110003100

Property Owner and Applicant: Julie L. Phelps
5076 Edwardsville Road, Hardy, Virginia 24101

Existing Zoning: A-1, Agricultural District

Proposed Land Use: Private Recreation Facility (dirt bike training and practice track and trails), Ministry Summer Camp and Campground, Tourist Resort Facility and Cabins

Project Overview:

Existing Conditions:

The Phelps Farm is approximately 185 acres in size and currently consists of large rolling woodlands and pastures. Mature forests line much of the perimeter of the property. A small stream, Beaverdam Creek, runs parallel to Edwardsville Road. The owner lives on the property which now has a farmhouse, outbuildings, a small cabin, and an existing dirt bike practice track with about 7 miles of wooded bike trails.

Proposed Land Uses and Facilities:

The Phelps Family engaged Hill Studio of Roanoke, Virginia (landscape architects, community planners, architects and historic preservation specialists) to work with them to develop a Concept Master Plan for the property that would illustrate and sensitively plan for using the property for (1) recreational motocross practice / training facility (dirt track and wooded trails for training purposes, not racing), and (2) ministry summer camp for youth that could be expanded over time to include an adult retreat ministry (campground with cabins). By developing these facilities, the applicant wishes to financially maintain her family and the farm; provide a recreational asset for the County that can be an economic draw for residents and visitors; add jobs for the community; further her ministry and community outreach; and help young people develop important leadership and activity skills.

The existing farmhouse and outbuildings on the property will continue to serve the family home. Proposed new facilities would be constructed on the interior of the property and would not be visible from Edwardsville Road or neighboring properties. New facilities would be constructed primarily in existing open pastures, leaving much of the forested land on the property intact, including the existing forested buffers at adjoining property lines which range from approximately 100-200 feet in width. Primary access would be from Edwardsville Road. (See Concept Master Plan.)

The Concept Master Plan shows three areas of recreational activities to be developed over time: (1) motocross training and practice facility (no racing) with parking areas, (2) summer camp / campground for ministry group activity and supporting accommodations, and (3) a cluster of small cabins for group retreats.

Phelps Farm Narrative for Special Use Permit

Phasing of Development:

The proposed recreational facilities will be developed in several phases, each dependent on economic feasibility, market conditions, improved internal road access, and provision of the required safe and sanitary water and septic services. We recognize that in addition to the Special Use Permit, the applicant must coordinate further with Franklin County and obtain approval for a development permit. In addition, the applicant will obtain the necessary approvals from the Virginia Department of Health for development of the facilities.

The following paragraphs discuss the proposed phases of development. Note that these phases may be adjusted depending on economic and infrastructure factors.

- Phase I Development would be the motocross practice / training facility with improved access road and parking, portable restroom facilities, picnic pavilion, visitor observation area, and small office. In addition, the first phase would include a youth ministry summer camp with overnight accommodations (platform hogans sleeping up to 8 persons), bathhouse facility, and activity areas for arts, gospel-based education, adventure skills, etc. Development of all facilities during the initial phase (and later phases) will be in accordance with approved water and septic (and summer camp / campground) regulations established by the Virginia Department of Health.
- Phase II Development would expand the overnight accommodations (camp hogans) and add supporting facilities such as a dining hall and swimming pool. This expansion will require a public water system (well lot, water treatment/building, storage tank, certified operator, etc.) and additional septic facilities. In addition, this phase would include development of additional cabins (each sleeping up to 5 persons) and the necessary septic drain fields. Internal access roads would be improved to provide necessary access to facilities. A small restroom facility and bike wash area would be added to the motocross facility.
- Phase III Development would expand the number of camp hogans and cabins and required water and septic facilities.

Operation Schedule: Users of the motocross and summer camp facilities would be staggered and typically, not occur at the same time. Generally, the summer camp would be during the week (Monday-Thursday) in June, July and August. The motocross track and trail users would train during the fall and winter months, and on weekends during the summer. Typical hours of operation for the motocross track would be from 10am – 5pm during the fall and winter and from 9am-5pm during the spring and summer (primarily on weekends).

Anticipated User Numbers: For discussion purposes, it is estimated that in the initial phase of development there could be up to 120 campers during the summer months (12 weeks, four days a week, or 48 days) and up to 125 motocross users or spectators during the fall and winter months. In later phases of the development (at full build out on a peak day), there could be up

Phelps Farm Narrative for Special Use Permit

to 300 summer campers and up to 250 motocross users or spectators. Note that these numbers are estimates. Also, users would not be on site at the same time and use of the facilities would be staggered.

Utilities:

The applicant recognizes that there are technical usage/treatment thresholds for water and sanitary services that are directly related to the number of users and phasing of facilities. Ms. Phelps plans to continue working with her engineer and the required agencies to identify more specific water and sanitary requirements for phased operation of the summer camp, the motocross training / practice facility and the cabins. Ultimately, the facilities need to get started and development appropriately phased to economically accommodate required water and septic improvements. An appropriately sized water works system and/or sanitary treatment system would be introduced in later development phases to service increased user needs. The State Health Department would determine the required water and septic facilities.

Initially, drinking water would be from bottled water provided by the user or summer camp operator. Water for the summer camp use is expected to be provided by well, either using the existing residential well (estimated flow of 40 GPM), or new wells, as required. It is expected that water usage for the summer camp and the motocross facility would be minimal and needed only to support restroom facilities. One gravel wash bay for dirt bikes is planned for the motocross facility, which would be serviced by a hose.

Transportation and Parking:

The recreational facilities will be accessible via an improved driveway entrance from Edwardsville Road designed to meet VDOT entrance requirements. Site distance for the entrance is very good; measurements done in August 2015 indicate intersection visibility on Edwardsville Road of 995 feet looking north and 813 feet looking south (610 feet is required for a 2-lane road with a speed limit of 55 mph). In 2011, the VDOT Average Annual Daily Traffic (AADT) estimate for Edwardsville Road, Route 635 near the subject property was reported to be 640 vehicles per day. It is expected that the existing road can accommodate the daily traffic generated by the proposed facilities, especially with the staggered users. In addition, motocross users usually carpool - riders, spectators, and dirt bikes.

A new internal road system (one-lane roads) will provide safe access for vehicles entering the recreational facilities. A new access drive from Edwardsville Road will serve the primary motocross parking area (to remain grass with reinforced turf provisions, if required).

New signage will guide visitors to facilities and to parking areas. Edwardsville Road will serve as the primary access road for all facilities. Day Lilly Lane will continue to serve the existing cabin in Phase I and will provide emergency and any necessary service access.

Public Safety and Emergency Access:

Safety is a primary concern for operation. The motocross practice / training facility will have posted safety rules rigidly enforced by the facility operator. These will be in compliance with

Phelps Farm Narrative for Special Use Permit

those endorsed by the American Motorcyclist Association. Safety gear for riders will be required (e.g. helmet, goggles, and boots). Trails are one-way in direction and signed accordingly. There will be no motocross racing. There will be no storage of fuel on site. There will be a no alcohol policy.

The youth ministry summer camp will be conducted in accordance with Virginia Department of Health regulations (address water supply, food storage/preparation, sanitation, disease controls, etc.).

All facilities (motocross, summer camp and cabins) will be accessible for emergency response and vehicles through an improved internal road network. The trail system has designated mile markers. The property is within the service district of the Red Valley Rescue Squad No. 9 on Route 116 (2885 Jubal Early Highway) and the Burnt Chimney Fire Department on Route 122 (7300 Booker T. Washington Highway). These facilities are within 7-10 miles and less than 15 minutes away.

Erosion/Sediment Control and Stormwater Management:

There are no designated FEMA flood zones on the property. Bike trails are located to reduce any soil erosion impacts to the low-lying stream, Beaverdam Creek. The primary motocross practice/training track and woodland trails have sufficient distance from any water tributary to control erosion and pollutants using existing vegetation and ground surfaces for filtration. Natural planting areas, berms, and sediment bunkers (if needed) will be used to manage any runoff and sediment from the motocross track.

Building and support facilities will be sited and constructed using low-impact design techniques (LID) to minimize stormwater runoff and control pollutants. All facilities will employ environmentally friendly, best practice methods for minimizing soil disturbance and managing stormwater runoff.

All development will be done in compliance with Franklin County development regulations, including coordination regarding any requirements erosion and sediment control and stormwater management.

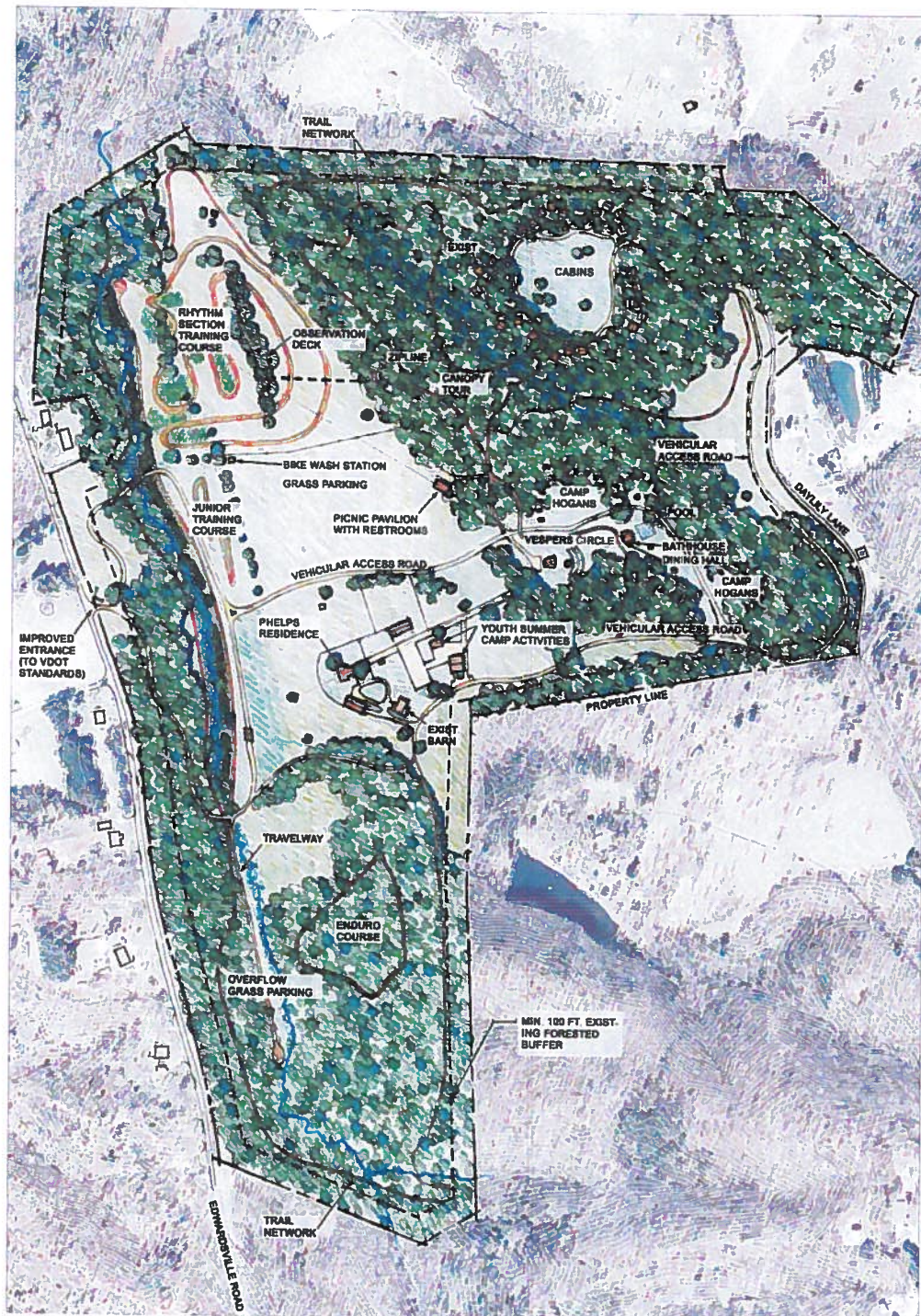
Noise:

The property is in current use as a dirt bike practice area. There will be established hours of operation. The track is located in the interior of the property below grade of Edwardsville Road and is surrounded by natural forested areas. There will be no racing. The operator lives on the property and desires to maintain the natural features and rural ambience of the community.

Trash:

Operator will provide on-site trash receptacles and be responsible for removal of any trash collected during operation of the motocross track and the camp. In the future, other arrangements will be made with a private company to assist in hauling any collected trash.

Attachments: Concept Master Plan dated 9-08-2015, Property Location Map



PHELPS FARM
Owner: Julie Phelps
5076 Edwardsville Road
Hardy, VA 24101

October 28, 2015

Tax Parcels
 0110000302B 43.23 ac
 0110003100 33.70 ac
 0110003302 103.00 ac
 0110003300 5.00 ac

1"=50' C SCALE IN FEET



received
10/19/15 JAC

October 14, 2015

Angie McGhee, Boon District
Planning Commission
Dept. of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, VA 24153

Re: Case # Spec 5-15-14332, Petition of Special Use by Julie Phelps

Dear Ms. McGhee,

Last night we had the privilege of attending the Planning Commission meeting regarding Ms. Phelps request for a Petition of Special Use. We live at 15 Kristen Forest, Hardy, VA. We are right across from Day Lilly Lane off of Truman Hill. Although our home does not abut next to Ms. Phelps' property, we have walked our dogs down Day Lilly Lane on multiple occasions and therefore are just a short walk from Ms. Phelps land.

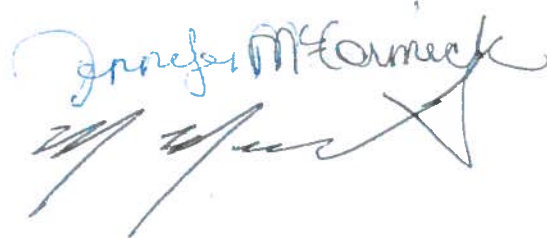
We were not aware of Ms. Phelps' business plans until last night when she revealed them during her presentation. Both of us were overwhelmed with the sheer number of motorbikes she is expecting to take advantage of her new business and the number of hours she wants to operate her business. Some of her supporters likened the noise of a motorbike to the same decimal level of a lawn mower or a loud truck. It might be the case that one motorbike is comparable in noise to one lawn mower. Yet people who use a lawn mower do not use it from 10 AM to 5 PM every day of the week. Instead they use it for a couple hours once every one or two weeks. Plus, I have never heard more than one or two lawn mowers at one time. Ms. Phelps wants to develop her property to accommodate up to 300 motorbikes at once. This noise would not only be loud it would be relentless. During the meeting Ms. Phelps confessed she has never had more than 30 bikes on her property at once. I am inclined to believe that most of the time she had far less then that running. Yet the noise has already been emotionally draining to her neighbors. The increased numbers and the ensuing noise she is talking about would affect a far larger area and negatively affect the whole community.

We moved to Franklin County in 1999 to escape the noise and traffic of the city. We enjoy the peace and tranquility the area we live provides. Although both of us commute a long way to work each day for us the drive is worth the beautiful wooded lot and quiet our neighborhood provides. One of the reasons we chose not to live on the lake is to avoid the noise associated with all the boat traffic. If we knew that our home might be walking distance from a commercial motorbike training facility that could accommodate up to 300 motorbike enthusiasts and their families we would have never chosen to live where we do.

I know Ms Phelps has put a lot of time and dreams in her idea of a Motorbike Park. But we are respectfully requesting the Planning Commission to consider the needs of the rest her neighbors and reject her proposal of a Commercial Motorbike Training Facility off of Edwardsville Road.

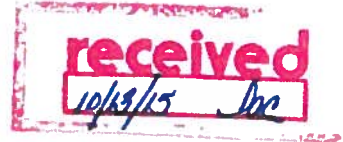
Sincerely,

Jennifer and Mike McCormick

Handwritten signatures of Jennifer and Mike McCormick in blue ink. The signature for Jennifer is written above the signature for Mike. Both signatures are stylized and cursive.

Proposed Amendments to Staff Conditions/Recommendations for SUP

From the Franklin County Staff Report 9/28/2015



The Planning Commission recommends that the Board of Supervisors approve this request for Special Use Permit, with the following conditions:

1. Substantial conformity. The property shall be developed in substantial conformity with the conceptual plan, entitled "Phelps Farm," and narrative, entitled "Phelps Farm Narrative for Special Use Permit", consisting of pages 1-4, prepared by Hill Studio, dated 9/8/2015.

This is an acceptable condition.

2. Limitation of Use. The use of "Recreational Facilities (private)", "Summer Camp", "Campground (Private)", and "Motels, Hotels, Tourist and Resort Facilities" shall be limited to a recreational motorcross practice/training facility (no racing) and associated facilities, private campground with cabins for youth summer camp and associated facilities, tourist facility for adult retreats consisting of ~~ten (10)~~ a campground and ~~ten (10)~~ self-contained cabins for overnight and/or short-term lodging and associated facilities, including walking trails and outdoor activity areas in conformance with conceptual plan and narrative referenced in #1 above.

Ms. Phelps has requested a special permit for the motocross training facility, the summer camp (youth), a campground (adults), and cabins (adults). The Concept Plan developed for all of the facilities has been carefully prepared and shared with the County to show the ultimate build-out for the proposed facilities. The master plan was crafted carefully to accommodate 25 cabins; however, the proposed limitation to 10 cabins is agreeable, if the number of cabins is of concern to the County.

3. Buffering. The use of "Recreational facilities (private)", "Summer Camp", "Campground (Private)" and "Motels, Hotels, Tourist and Resort Facilities" shall require the perpetual maintenance of an existing wooded buffer along the exterior perimeter property line of all parcels, measuring ~~not less than an~~ average of one-hundred to two-hundred feet (200') in depth, as measured perpendicular to the property line. Removal of dead or diseased trees shall be permitted.

Proposed Amendments to Staff Conditions/Recommendations for SUP

Ms. Phelps intends to maintain the existing forested buffer along the perimeter of her property which ranges from 100 to 200 feet in depth, as shown on the Concept Plan dated 9/8/2015. To agree to a buffer of 200 feet in depth is not accurate.

4. Noise:

- a. No motocross racing shall be permitted on the subject property.
- b. All bikes using the property shall have proper mufflers or other silencers to reduce noise impacts on adjoining properties.
- c. ~~No more than ten (10) motocross bikes shall be allowed to practice/train on the subject property at any given time. (See notes below.)~~
- d. Hours of operation for the recreation facility, private shall be limited to 10am-5pm. In addition, use of the recreation facility, private and summer camp shall not occur concurrently. However, motocross training shall be permitted as an activity during the youth summer camp.

Item (c) proposing to limit the motocross bikes on the property at any one time is not agreeable and is an insufficient number to enable the applicant to economically operate the proposed motocross training facility. There are approximately 10 miles of trails and track that can be used. In addition, regulating the numbers of bikes does not necessarily achieve a lower volume of sound.

Sound can be addressed in other ways. The motocross operator will have a track/trails manager who will manage the number of bikes on the track and trails at any one time. They will supervise and direct trail and track use based on bike type and size, age riders, and adopted safety standards.

The master plan is based in having these numbers of riders on-site simultaneously:

40	Motocross training course and rhythm section
25	Junior Training Track
200	Trail Network (woods loop)
40	Enduro Course

Item (d) hours of operation are acceptable. Typically, the summer camp and the motocross training facility will not be operated concurrently. However, there may be a summer camp activity for youth that offers introductory

Proposed Amendments to Staff Conditions/Recommendations for SUP

motocross training (similar to archery, kayaking, or other physical activities).

Additional agreeable conditions to address sound concerns:

- e. A track/trail manager will supervise and direct trail and track use and the number of riders based on bike type and size, age of riders, and adopted safety standards.
- f. Trails now located close to Edwardsville Road (at a higher elevation) will be relocated to locations that are lower in elevation, below the grade of the road.
- g. New trails will be sited below the slopes to the extent possible so that the natural earth provides some sound suppression.
- h. Plantings and plant-stabilized earthen berms will be used in selected open-field locations near the motocross track to help absorb and minimize noise to the extent feasible. These locations will be identified and shown on the Erosion and Sediment Control Plan submitted to the County during site development.

5. Compliance with State Regulations:

- a. All overnight use of the property and public gatherings shall be approved by the Virginia Department of Health to ensure compliance with respect to water supply, waste disposal and food service and preparation.
- b. Existing entrance on Edwardsville Road (Rte. 635) shall be improved to meet VDOT standards and requirements prior to any use authorized by this special use permit.
- c. No gasoline or oil products shall be stored on the subject property without the approval of VA Department of Environmental Quality and/or Franklin Building Official.
- d. Each phase of development shall have an approved development plan detailing all land disturbing activities and storm water management.

This is agreeable.

6. Operations Manuals: The property owner shall develop an emergency operations manual for the property that details protocols for fires, bodily injuries, theft, special events and hazardous material incidents on the subject property. The property owner shall also develop a manual defining rules and regulations concerning the uses approved under this special use permit. For example, rules for use of the motocross facility (age, noise, hours

Proposed Amendments to Staff Conditions/Recommendations for SUP

restrictions, safety equipment required, etc.) shall be stated therein. Both manuals shall be submitted to the Zoning Administrator before commencing uses defined herein. The manual shall be amended as uses begin or are expanded.

Consider the following substitute condition:

Operations Manual: The owner/operator shall prepare an Operations and Safety Manual that addresses protocols for fires, injuries, hazardous materials, and rules of operation for facilities. Emergency and safety procedures will be coordinated with the Red Valley Rescue Squad #9 and the Burnt Chimney Fire Department to ensure effective safety methods and communication. The owner will provide a copy of the manual to the Zoning Administrator before commencing operations of the facility.

7. Trash/Litter: All trash generated on the subject property shall be properly contained and secured on site until it can be picked up by licensed trash hauler or properly disposed at appropriate facility.

Agreeable condition.

8. Access to the property from Daylilly Lane (private) shall be limited to private use by the property owner, service vehicles for the summer camp activities and emergency vehicles. This entrance shall ~~remain~~ be gated to limit use from public.

Daylilly Lane shall remain open for private use by the property owner. The Daylilly Lane entrance is not presently gated.

9. Sports or stadium Lighting of the recreation facility, private shall not be allowed. Dusk to dawn lighting for security shall be permitted.

Agreeable condition. The applicant does not intend to install sports lighting for the recreational facility.

10. No RV camping shall be allowed on the subject property.

We understand that the Franklin County Zoning Section 25-155, Campgrounds and Recreational Vehicle/Camper Areas, would normally apply to any RV camping. There may be a motocross participant who desires to bring an RV and stay overnight, as an incidental use to the training. We

Proposed Amendments to Staff Conditions/Recommendations for SUP

will require that to stay overnight, any RV (known as a "toy hauler, similar to fully-contained horse trailers with living quarters) vehicle must be fully self-contained with regard to water, sewage and electricity, and will require no utilities for their living quarters. No more than 20 such vehicles will be allowed to remain on site over night at a time. We agree not to permit anyone other than those involved in training to camp with an RV on the property.

Sandy, Steve

From: Julie Phelps [julpies@gmail.com]
Sent: Wednesday, September 30, 2015 9:20 AM
To: Evelyn Slone; David Hill
Cc: Sandy, Steve
Subject: Fwd: Planning Commission Staff Report PHELPS
Attachments: SPEC-9-15-14745 Phelps.pdf

received
09/30/15 JAC

PLEASE READ #4, #10 in the recommendations. They are recommending NO MORE THAN 10 bikes in operation at any given time. I will never get to phase two based on 10 riders!
Also, they are stating "no RV camping at all" even though we are proposing dry camping with NO hook ups. What do I do now? Ten riders at any one time will not give me enough revenue to ever build anything. Please respond ASAP. Thank you!

Julie
540-890-8738
Sent from my iPad

Begin forwarded message:

From: "Crouch, Lori" <Lori.Crouch@franklincountyva.gov>
Date: September 30, 2015 at 8:27:52 AM EDT
To: "julpies@gmail.com" <julpies@gmail.com>
Subject: Planning Commission Staff Report

Good Morning, Julie.

Please find attached a copy of the Staff report that will be going out to our Planning Commission Members on Friday. Should you have any questions, please let me know. Steve is out of the office until Monday at Training. But I believe he can be reached via email at steve.sandy@franklincountyva.gov, should you have questions for him.

Sincerely,

Lori A Crouch
Administrative Assistant II
Franklin County Development Services
1255 Franklin Street, Suite 103
Rocky Mount, VA 24151

Franklin County, VA

Browse  Results  Changes new!

Franklin County, Virginia - Code of Ordinances

CODE County of FRANKLIN, VIRGINIA modified

SUPPLEMENT HISTORY TABLE modified

 Chapter 1 - GENERAL PROVISIONS

 Chapter 2 - ADMINISTRATION

 Chapter 3 - AMUSEMENTS

 Chapter 4 - ANIMALS AND FOWL

 Chapter 5 - BUILDING REGULATIONS

 Chapter 5.1 - CABLE TELEVISION

 Chapter 5.5 - COMMUNITY DEVELOPMENT

 Chapter 6 - DEMONSTRATIONS AND PARADES

 Chapter 7 - EROSION AND SEDIMENT CONTROL AND STORMWATER MANAGEMENT


 Chapter 8 - PUBLIC SAFETY

 Chapter 9 - FLOODPLAIN MANAGEMENT

 Chapter 9.1 - HEALTH AND SANITATION

 Chapter 10 - MANUFACTURED HOMES AND MANUFACTURED HOME PARKS

 Chapter 11 - MOTOR VEHICLES AND TRAFFIC

 Chapter 12 - NUISANCES

 Scroll to Top

 ARTICLE I. - IN GENERAL

■ARTICLE II. - ABATEMENT

■ARTICLE III. - NOISE

■Chapter 13 - OFFENSES—MISCELLANEOUS

■Chapter 14 - PEDDLERS AND SOLICITORS

■Chapter 15 - PRECIOUS METALS AND GEMS

■Chapter 16 - RIOTS AND UNLAWFUL ASSEMBLIES

■Chapter 17 - SEWERS AND SEWAGE DISPOSAL

■Chapter 18 - SOLID WASTE

■Chapter 19 - SUBDIVISIONS

■Chapter 20 - TAXATION

■Chapter 21 - TIRE STORAGE

■Chapter 22 - WATER AND SEWER SYTEMS

■Chapter 23 - PERSONAL PROPERTY

■Chapter 25 - ZONING

■Chapter 26 - PARKING ON COUNTY PROPERTY

■Chapter 27 - LAND USE DEVELOPMENT

■APPENDIX A - PUD DISTRICT ORDINANCE

CODE COMPARATIVE TABLE - 1974 CODE

CODE COMPARATIVE TABLE - ORDINANCES **modified**

STATUTORY REFERENCE TABLE

Chapter 12 - NUISANCES

ARTICLE I. - IN GENERAL

Sec. 12-1. - Chapter is supplemental to other provisions of Code relating to nuisances.

Sec. 12-2. - Prohibited.

Sec. 12-3. - Nonexclusive enumeration.

▲ Scroll to Top

FOOTNOTE(S):

--- (2) ---

Cross reference— Removal, repair, etc., of dangerous structures, § 5-3.

--- (3) ---

Cross reference— Vehicles or other objects obstructing highways or public grounds, § 11-96 et seq.

--- (4) ---

Cross reference— Premise where animals and fowl kept to be maintained so as not to constitute nuisance, § 4-2.

Sec. 12-1. - Chapter is supplemental to other provisions of Code relating to nuisances.



It is the intent of the board of supervisors, in enacting this chapter, to make it supplemental to other chapters of this Code in which nuisances are defined and prohibited and the provisions of this chapter relating to the abatement of nuisances shall be regarded as alternative methods and procedures for the abatement of nuisances in those instances where other methods and procedures for abatement are provided elsewhere in this Code.

(Code 1974, § 12-1)

Sec. 12-2. - Prohibited.



It shall be unlawful and a Class 1 misdemeanor for any person to cause, harbor, commit or maintain, or to suffer to be caused, harbored, committed or maintained, any nuisance, as defined by the statute or common law of this state or as defined by this Code or other ordinance of the board of supervisors, at any place within the county.

(Code 1974, § 12-2)

Cross reference— Penalty for Class 1 misdemeanor, § 1-11.

Sec. 12-3. - Nonexclusive enumeration.



- (a) The following acts when committed, or conditions when existing, within the county are hereby defined and declared to be nuisances:

▲ Scroll to Top

Sec. 12-4. - Premises to be kept clear of stagnant water and offensive substances and be properly drained.

Sec. 12-5. - Responsibility of property owners, occupants and others.

Secs. 12-6—12-20. - Reserved.

ARTICLE II. - ABATEMENT

Sec. 12-21. - Inspections and investigations.

Sec. 12-22. - Right to enter private premises.

Sec. 12-23. - Notice to cease and desist when activity constitutes nuisance.

Sec. 12-24. - Notice to abate condition constituting nuisance.

Sec. 12-25. - Abatement by county.

Sec. 12-26. - Article does not prohibit arrest for committing or maintaining nuisance.

Secs. 12-27—12-29. - Reserved.

ARTICLE III. - NOISE

Sec. 12-30. - Purpose.

Sec. 12-31. - Definitions.

Sec. 12-32. - Administration and enforcement.

Sec. 12-33. - Noises prohibited.

Sec. 12-34. - Maximum sound pressures levels.

Sec. 12-35. - Penalties and violations.

Sec. 12-36. - Noises exempted.

Chapter 12 - NUISANCES



FOOTNOTE(S):

--- (1) ---

Cross reference— Sewage disposal systems constituting nuisance, §§ 17-3, 17-7.

State Law reference— Nuisances generally, Code of Virginia, title 48.

ARTICLE I. - IN GENERAL



▲ Scroll to Top

adequate drainage therefor so that no offensive, baneful or disagreeable liquids shall flow or seep into any street. Any violation of this section is hereby declared to be a nuisance.

(Code 1974, § 12-4)

Sec. 12-5. - Responsibility of property owners, occupants and others.



Each owner, lessee, tenant, occupant or person in charge of any real property within the county, and each agent or representative of any such person, is hereby charged with responsibility for the maintenance and use of such real property in such manner that no use of, or activity or condition upon or within, such real property shall constitute a nuisance. All such persons are hereby charged with the duty of observing all of the provisions of this chapter, but such responsibility shall not be construed to permit any other person not charged with such responsibility to commit or maintain any nuisance upon or within any real property in the county.

(Code 1974, § 12-5)

Secs. 12-6—12-20. - Reserved.



ARTICLE II. - ABATEMENT



Sec. 12-21. - Inspections and investigations.



It shall be the duty of the sheriff and the health officer, each within the scope of his official responsibility, to cause inspections to be made from time to time of all portions of the county to determine whether any condition exists or activity is being practiced which constitutes a nuisance. Each such officer shall cause an investigation to be made upon complaint made by any responsible person.

(Code 1974, § 12-6)

Sec. 12-22. - Right to enter private premises.



- (1) Any act done or committed or aided or assisted to be done or committed by any person, or any substance, being or thing kept, maintained, placed or found in or upon any public or private place, which is injurious or dangerous to the public health or safety.
 - (2) All buildings, bridges or other structures of whatever character kept or maintained, or which are permitted by any person owning or having control thereof to be kept or maintained, in a condition unsafe, dangerous, unhealthy, injurious or annoying to the public. ^[2]
 - (3) All trees and other appendages of or to realty kept or maintained, or which are permitted by any person owning or having control thereof to be kept or maintained, in a condition unsafe, dangerous, unhealthy, injurious or annoying to the public.
 - (4) All ponds or pools of stagnant water, and all foul or dirty water or liquid when discharged through any drain, pipe or spout, or thrown into or upon any street, public place or lot to the injury or annoyance of the public.
 - (5) All obstructions caused or permitted on any street or sidewalk to the danger or annoyance of the public, and all stones, rubbish, dirt, filth, slops, vegetable matter or other articles thrown or placed by any person on or in any street, sidewalk or other public place, which in any way may cause any injury or annoyance to the public. ^[3]
 - (6) All sidewalks, gutters or curbstones permitted to remain in an unsafe condition or out of repair.
 - (7) All stables, cattle yards, hog, sheep or cow pens or yards for poultry permitted by the owner thereof or the person responsible therefor to be in such a condition as to become offensive, annoying or injurious to the public. ^[4]
 - (8) All houses or buildings used for special storage of powder, dynamite or other explosive substances, except those maintained pursuant to all applicable provisions of state law, this Code and other ordinances of the county.
- (b) The nuisances described in this section shall not be construed as exclusive, and any act of commission or omission and any condition which constitutes a nuisance by statute or common law of the state, when committed, omitted or existing within the county, is hereby declared to constitute a nuisance.

(Code 1974, § 12-3)

Sec. 12-4. - Premises to be kept clear of stagnant water and offensive substances and be properly drained.



No person owning or in possession of any lot, house, building or enclosure shall allow or suffer to exist in or upon such premises any stagnant water, animal or vegetable matter or other substance liable to become putrid, offensive, annoying or unhealthy. Persons owning or in possession of any real estate shall provide proper and

The sheriff and his deputies and the health officer and his assistants shall have the right to enter upon private premises for the purposes specified in section 12-21 upon compliance with all applicable provisions of law. Unless it appears probable that advance warning would defeat the purpose of such entry, occupants of premises to be entered shall be given reasonable notice in advance, and in any case it shall be unlawful for any owner or occupant to prevent such entry which is sought to be made in compliance with law.

(Code 1974, § 12-7)

Sec. 12-23. - Notice to cease and desist when activity constitutes nuisance.



If at any time the sheriff or the health officer shall find that an activity or practice which constitutes a nuisance is occurring within the county, he shall promptly and by the most expeditious means notify the violator to cease and desist forthwith.

(Code 1974, § 12-8)

Sec. 12-24. - Notice to abate condition constituting nuisance.



If at any time the sheriff or the health officer shall find that a condition which constitutes a nuisance exists within the county, he shall give notice in writing to the owner, occupant or person in charge of the premises upon which such condition exists, stating therein the condition which constitutes a nuisance and directing such addressee to remedy the condition within the time stated in such notice, which shall be not more than ten (10) days. It shall be unlawful and a Class 1 misdemeanor for any such owner, occupant or person in charge to fail to comply with the terms of such notice; provided, that any owner, occupant or person in charge may, within two (2) days from the service thereof, appeal to the board of supervisors, in which case the terms of such notice shall be stayed pending action of the board, which shall be final; provided further, that if the sheriff or the health officer shall state in such notice that the condition which constitutes a nuisance is such as to be an imminent hazard to the health, safety or welfare of the public or any person within or near the premises upon which such nuisance exists, then the addressee shall comply with the terms of such notice.

(Code 1974, § 12-9)

Cross reference— Penalty for Class 1 misdemeanor, § 1-11.

▲ Scroll to Top

Sec. 12-25. - Abatement by county.



- (a) Upon the failure of any person to whom notice has been given pursuant to section 12-24 to comply with the terms of such notice, or with the terms imposed by the board of supervisors on appeal, as the case may be, the sheriff or the health officer shall forthwith direct the appropriate county officer to remedy the condition which is the subject of such notice, and the expense incurred by the county in so doing shall be charged to the addressee of such notice, to be collected in the same manner as county taxes or in any other manner authorized by law.
- (b) Abatement by the county of any condition which constitutes a nuisance and reimbursement to the county of expenses incurred thereby shall not bar prosecution for maintenance of a nuisance.

(Code 1974, § 12-10)

Sec. 12-26. - Article does not prohibit arrest for committing or maintaining nuisance.



Nothing in this article shall be construed to prohibit any police officer from arresting any person for committing or maintaining a nuisance when such arrest is made pursuant to law.

(Code 1974, § 12-11)

Secs. 12-27—12-29. - Reserved.



ARTICLE III. - NOISE



Sec. 12-30. - Purpose.



The purpose and intent of this article is to establish standards and guidelines for the abatement of certain noises and to promote the health, safety and general welfare of the public.

(Ord. of 5-16-06)

[▲ Scroll to Top](#)

Sec. 12-31. - Definitions.

Person. Any individual, corporation, cooperative, partnership, firm, association, trust, estate, private institution, group, agency or any legal successors, representative, agent or agency thereof.

Public right-of-way. Any street, avenue, boulevard, highway, alley or public space which is owned or controlled by a public governmental entity.

Weighted sound level. The sound pressure level in decibels as measured on a sound level meter using the A-Weighing network.

(Ord. of 5-16-06)

Sec. 12-32. - Administration and enforcement.



The provisions of this article shall be enforced and administered by the sheriff of Franklin County, who is hereby designated as the noise control officer for the County of Franklin. The sheriff may, in his discretion, ask for the assistance of other departments within the county in administering and enforcing the provisions herein.

(Ord. of 5-16-06)

Sec. 12-33. - Noises prohibited.



The following act is violation of this article:

- (1) Using or operating a loudspeaker or other sound amplification device in a fixed or movable position exterior to any building, or mounted upon any motor vehicle or boat or mounted in the interior of a building or vessel with the intent of providing service to an exterior area for the purpose of commercial advertising, giving instructions, information, directions, talks, addresses, lectures, or providing entertainment to any persons or assemblage of persons on any private or public property when such activities exceeds the maximum sound pressure levels as established in section 12-34 of this chapter.

(Ord. of 5-16-06)

Sec. 12-34. - Maximum sound pressures levels.



Receiving Land Use Category	▲ Scroll to Top	Sound Level Limit
		7:00 am—11:30 pm



The following terms, words and phrases, when used in this chapter, shall have the meanings hereinafter ascribed to them, unless otherwise clearly indicated by the context in which used:

Decibel. A unit for measuring the volume of sound equal to twenty (20) times the logarithm to the base ten (10) or the ratio of the pressure of the sound in microbars to a reference pressure of 0.0002 microbar; and is abbreviated db(a) or dba.

Device. Any mechanism, which is intended to, or actually produces noise when operated or handled.

Emergency work. Any work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from immediate exposure to danger, including work performed by public service companies when emergency inspection, repair of facilities or restoration of services is required for the immediate health, safety or welfare of the community.

Motor vehicle. Any vehicle which is self-propelled or designed for self-propulsion including, but not limited to, passenger cars, trucks, truck-trailers, semitrailers, campers, motor boats and racing vehicles and any motorcycle (including, but not limited to, motor scooters, mini-bikes, all-terrain vehicles and three wheelers) as defined by Code of Virginia, § 46.2-100, Definitions.

Noise. Any sound which may cause or tends to cause an annoyance or disturbance or which causes or tends to cause an adverse physiological or psychological effect on human beings.

Noise disturbance. Any unnecessary sound which annoys, disturbs or perturbs reasonable persons with normal sensitivities; or any unnecessary sound which reasonably may be perceived to injure or endanger the comfort, repose, health, peace or safety of any person.

Sound. Any oscillation in pressure or particle medium with internal forces that causes rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

Sound level. The weighted sound pressure level obtained by the use of a sound level meter and the A-frequency-weighting network, as specified in the American National Standards Institute Specification for Sound Level Meters.

Sound level meter. An instrument which includes a microphone amplifier, RMS detector, integrator or time average, output meter and weighting networks used to measure sound pressure levels.

▲ Scroll to Top

Sound pressure. The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space.

	7:00 AM - 11:30 PM 67 dBA
Receiving Land/Property	11:31 PM - 6:59 AM 62 dBA 67

- (1) Sound shall be measured by the use of a sound level meter on the A-frequency-weighting network.
 - (2) Sound shall be measured at the property line or right-of-way.
- (Ord. of 5-16-06)

Sec. 12-35. - Penalties and violations.



- (a) Any person who violates any provision of this chapter shall be guilty of a Class 3 misdemeanor.
- (b) Each violation of any provision of this chapter shall constitute a separate offense, whether committed on the same or subsequent days.
- (c) The person operating or controlling a noise source shall be guilty of any violation caused by that source. If that cannot be determined, any owner, tenant, resident or occupant physically present on the property or in possession of the noise source, is presumed to be guilty of the violation.

(Ord. of 5-16-06)

Sec. 12-36. - Noises exempted.



- (a) Radios, sirens, and horns on sheriff, police, fire or other emergency response vehicles.
- (b) Parades, fireworks or other permitted special events or activities.
- (c) Sound amplifying equipment used at public parks or recreation fields.
- (d) Band performances or practices, athletic contests or practices and other school-sponsored activities on the grounds of public schools, provided that such activities have been authorized by school officials.
- (e) Religious services, religious events or religious activities, including, but not limited to music, bells, chimes and organs which are a part of such religious activity.

▲ Scroll to Top

- (f) Commercial, industrial or business activities lawfully conducted on or permitted upon land, excluding noises prohibited as established in section 12-33 of this chapter.

(Ord. of 5-16-06)

▲ Scroll to Top

October 13, 2015



Good Evening Members of Department of Planning and Community Development:

My husband and I are landowners with property adjacent to Julie Phelps. We live on Daylily Lane a private one lane gravel road. We are opposed to the application for a Special Use Permit that Julie Phelps seeks to obtain.

Our objections are threefold: Personal quality of life issues, Health concerns, and the proposal does not fit into the County 2025 Comprehensive Plan.

First Quality of Life: My husband and I have been teachers for 36 years. We moved to Franklin County in 1983 and in 1985 bought our first house in Franklin County. We have lived here for 32 years. Why? We wanted to be part of an agrarian lifestyle. We love nature, animals, grassy fields, and peace and quiet. We have raised our three children in this wonderful county. Our children are honor graduates of Franklin County High School and two of the three have completed four year degrees and one is in graduate school. One daughter has returned to work in the county. We are proud of the educational, cultural and economically diverse environment that we chose to raise our children in. We take great pride in the fact that we can sit outside on a starry night or sled down our private driveway.

We also moved to the county because we wanted to own a part-time agribusiness since we are teachers. We planned for the business to later grow into full-time business as retirees. The agribusiness didn't work out part-time because teaching is a very demanding job, and we couldn't devote the time needed to our daylily business. But we plan to restart in the very near future since we are planning on retiring in Franklin County. Having an agribusiness next to a dirt practice track will be a challenge.

Our quality of life is being shattered. Julie Phelps has not been a good steward of the land. She built a cabin on her property for her personal use, but now she rents the cabin for \$150 a night according to her advertisement on FaceBook. Yes, on FaceBook she advertises her business as Phelps Farm Offroad Dirtbike Practice and Trails. Now she sends trailers hauling dirt bikes on trucks and trailers down our quiet one lane gravel road. They race their dirt bikes in fields directly across from our home opening their throttles wide as they accelerate, creating incredible noise and dust. She is not a good steward of the land: dirt bikes create horrible noise, and they have created an erosion problem on the hill above the small creek

above her field. Julie has never participated in the maintenance of Daylily Lane, even though Walter Althoff, former landowner on Daylily Lane, asked her to contribute to its maintenance 2 years ago. Her fence along Daylily has fallen into disrepair with broken boards and overgrowth thick with poison ivy.

My labrador retrievers are terrified of the noise created by the bikes. Many weekends the dogs beg to come inside, rather than frolicking in our farm pond because of the incredibly jarring trail bike noises. Once my husband even followed a car halfway to their cabin because the lady was driving at an incredible speed – when she stopped to talk to my husband the woman got out of the car with a glass of wine in her hand and said she was staying at cabin.

Health and Environmental Issues: An internet search is quick to reveal that many localities are rethinking their positions on off-highway vehicles such as trail bikes. One major concern is the environment. Dirt bike traffic leads to problems with soil erosion, opening, large ruts in the earth, compacting the soil, harming native plants and altering ecosystems. Dirt bikes are significant contributors to poor air quality giving off far more toxic fumes than automobiles.

Long term exposure to unnatural noise can stress wildlife. Animals have extremely sensitive hearing. Loud noise frightens animals and high frequency sounds hurt their ears. Studies have shown that unpredictable sudden noise provokes distress responses in animals.

The World Health Organization has stated that noise pollution is associated with an increase in aggressive behavior, anxiety, stress, nervousness, hypertension, cardiovascular disease, and sleep disturbances. Yes – sleep disturbances – my youngest daughter has her Bachelor's Degree in Nursing from Radford University and works night shift at our own Carilion Franklin Memorial in Rocky Mount. Numerous times on our quiet Daylily Lane she has been woken up to the open scream of a dirt bike. One neighbor asked Julie about how many bikes did she anticipate would be riding on the practice track. 20, she said! I can only imagine how horrible this will be.

Well, how can noise cause so many problems? According to the World Health Organization, a growing body of evidence confirms that noise pollution has both temporary and permanent effects on humans by way of the endocrine system – our hormones. The increased noise levels create stress, causing the body to release too much cortisol. Increased cortisol levels have been linked to increases in blood

sugar, suppressed immune systems, decreases in bone formation, increased blood pressure, and a higher risk of cardiovascular disease.

In 2010 at the 20th International Congress on Acoustics in Sydney, Australia a presentation was made entitled "Trail Bike Exhaust Noise". For all trail bikes tested, the measured ride-by noise levels exceeded industry measured noise levels – in other words, the industry levels far underestimated the real noise level of the bikes. Unmodified bikes were on average 14 decibels louder than the acceptable level and after-market or modified exhausts were 20 decibels above approved levels. The bikes measured 94-100 decibels. All bikes tested exceeded the industry standard. What do these decibel levels mean? A busy freeway at 50 feet from traffic is around 80 decibels. A jackhammer is 100 decibels. On thumpertalk.com (a forum for trail bikers) the members discussed the decibel levels of their bikes – they ranged from a low of 92 decibels to a high of 115 decibels. The National Institute for Occupational Safety and Health says hazardous noise is "sound that exceeds the average of 85 decibels". The World Health Organization recommends that unprotected exposure to sounds of this strength should be limited in duration to four times per year! Yet, I listen to it on a weekly basis and it would be far more often if the Special Use Permit is approved.

Franklin County Comprehensive Plan 2025:

From the Franklin County Comprehensive Plan 2025, I learned a great deal. According to the Franklin County Neighbor Analysis my property and the property of Julie Phelps is located in Tract 203: Northeast County between the Roanoke (Staunton) River and Bedford County. We are bordered on the west by State Route 116 and on the south by State Route 122. The land use in the area is predominately agricultural and forested, but with concentrated residential development within. The entire area of Tract 203 is listed on the Franklin County General Agricultural Suitability Map is listed at the highest level – Prime Agricultural Land. Why are we building a dirt bike track on prime agricultural land?

In the Comprehensive Plan numerous references are made to Franklin County's desire to maintain its rural character. 'A segment of the community remains dedicated to the agricultural way of life, and it is desirable to protect that land.' The Comprehensive Plan refers to 'Rural Residential areas where the built-up settlements will be a mix of agricultural and forest interspersed with residential

uses.' Our area is not meant for a build-up of noisy commercialism associated with trail bike riding.

Franklin County provides an unparalleled quality of life in a natural setting. I'd like to quote from the website: we have an outdoor paradise, a haven for fishermen, boaters, hunters, hikers, bicyclists, and nature lovers. The county recently hired a Tourism Development Manager. I can only believe his background is a statement of the beliefs of the Planning Commission. Our new Tourism Manager was involved in the development of the Crooked Road, SW Virginia Artisan Network, Chestnut Creek School of Arts, New River Gorge historic preservation, and of course the newly revived Franklin County Agricultural Fair.

We are adamantly opposed to the Special Use Permit for trail bikes, summer camps, motels, and hotels or any other type of resort facility. Julie Phelps is contributing to reducing the quality of my family's life, exposing us to health risks, and proposing a business that does not fit in with the community.

Petition Against Motocross Park at 5076 Edwardsville Rd

Petition Summary: _This development will adversely effect quality of life and property values of the surrounding residences. It is not in keeping with the rural/peaceful nature of the neighborhood. This Motocross Park would constitute a nuisance and substantially interfere with the use and enjoyment of our property.

Action Petitioned For: We the undersigned are concerned citizens who urge our leaders to act now to deny the special use permit for this Motocross park and resort facility.

Date	Signature	Printed Name	Address	Comment
10-13-15	T. Smith	Tammy Smith	609 Bush Ln Hardy VA 24101	
10-13-15	R Saunders	Regina Saunders	434 Bandy Dr H/0 RD 24101	
10-13-15	S. Whitaker	Stephanie Whitaker	1451 Coopers Cove Hardy Va 24101	
10-13-15	S. Whitaker	Stephanie Whitaker	105 Pine Springs Rd Hardy Va 24101	
10/13/15	Peggy Richar	Peggy Richar	104 Ridgecross Hardy VA 24101	
10/13/15	Cecil Arnold	Cecil ARNOLD	39 Ridgecross Dr Hardy Va 24101	

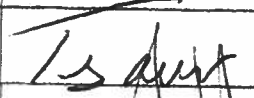



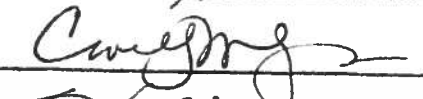

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Petition Against Motocross Park at 5076 Edwardsville Rd

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Action Petitioned For: We the undersigned are concerned citizens who urge our leaders to act now to deny the special use permit for this Motocross park and resort facility.

Date	Signature	Printed Name	Address	Comment
10/7/2015		TIMOTHY MIZLOV	479 RIDGECREST RD	EXCESSIVE NOISE
10/7/15		Joseph M Long	5828 HARDY RD	NOISE
10/7/15		PATRICIA NELSON	1118 BARNACLE DR.	EXCESSIVE NOISE
10/7/15		GILBERT H. NELSON	1118 Barnack Dr	Loud Excessive Noise
10/11/15		Carolyn W Long	5828 Hardy Rd	
10/12/15		Wryne Mize	499 Periwinkle Rd. Moneta	DESTROYS TOPSOIL Noisy.

received
10/15/15

Petition Against Motocross Park at 5076 Edwardsville Rd

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Date	Signature	Printed Name	Address	Comment
10/7/15	<i>Frank Chazanowski</i>	FRANK CHAZANOWSKI	100 Blue Mt Dr Hardy, VA 24101	
10/7/15	<i>Cheryl Chazanowski</i>	Cheryl Chazanowski	" "	
10-7-15	<i>India England</i>	INDIA ENGLAND	195 Buck Dr Hardy	
10-7-15	<i>Tom England</i>	Tom England	" "	
10-7-15	<i>Kathy Lane</i>	KATHY LANE	199 Buck Dr Hardy, VA	
10-7-15	<i>Alyssa M Mills</i>	Alyssa M Mills	370 Blue Mountain Dr. Hardy	

[illegible]

Petition Against Motocross Park at 5076 Edwardsville Rd

Petition Summary: _This development will adversely effect quality of life and property values of the surrounding residences. It is not in keeping with the rural/peaceful nature of the neighborhood. This Motocross Park would constitute a nuisance and substantially interfere with the use and enjoyment of our property.

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Date	Signature	Printed Name	Address	Comment
10/6/15	Judith C Bush	JUDITH C BUSH	4945 HARDY, VA EDWARDSVILLE Rd	Please Vote NO
10.06.15	Mark Gordon	Mark Gordon	1147 Harmony School Rd Hardy VA 24101	"
10.06	Amy Gordon	Amy Gordon	1147 Harmony School Rd Hardy VA 24101	"
10-6	Avon Teague	Avon Teague	4733 Edwardsville Rd Hardy VA 24101	"
10-6	Dollie Green	Dollie Green	3908 Edwardsville Rd Hardy Va	"
10-6	Lewis Green	LEWIS GREEN	11	"

[illegible]

Date	Signature	Printed Name	Address	Comment
10/6/15	Susan Richards	Susan Richards	3701 Edwardsville Rd Hardy VA 24101	No
10/	Mark Leftwich	MARK LEFTWICH	5025 EDWARDSVILLE RD HARDY VA 24101	"
	Brenda Althe	Brenda Manning	5025 Edwardsville Rd Hardy VA 24101	"
	Keith Manning	Keith Manning	5025 Edwardsville Road Hardy, VA 24101	"
	James Manning	James Manning	5025 Edwardsville Rd Hardy, VA 24101	"
10/9/15	Debra B Calvert	Debra B Calvert	1236 Harmony School Rd Hardy VA 24101	"
	Charles W Calvert Jr.	CHARLES W CALVERT JR	1236 Harmony School Hardy VA 24101	"
	Nancy A Proctor	Nancy Proctor	Hardy VA	"
	Nancy Nelson	Nancy Nelson	4805 Edwardsville Road	"
	Roy Greer	Roy GREER	"	"
10/11/15	Linda C. Hughes	Linda C. Hughes	570 Daylily Lane Hardy, VA 24101	"
	Earl B. Hughes Jr	Earl B. Hughes	"	"
	<u>Sarah C. Hughes</u>	<u>Sarah C. Hughes</u>	"	"

Date	Signature	Printed Name	Address	Comment
10-11-15	Calvin Plybon	Calvin L. Plybon	4374 Edwardsville Rd. Hardy, VA 24101	NO
10-11-15	Juanita L. Plybon	Juanita C. Plybon	4374 Edwardsville Rd. Hardy, VA 24101	"
10-11-15	J. Marsico	Jay Marsico	8606 Edwardsville Hardy VA	"
10-11-15	RS Munj	Roy Marsico	8606 Edwardsville Hardy VA	"
10-11-15	Rose Williamson	Rose Williamson	155 Shell Dr. Hardy, VA 24101	Noise / Noise ^{Noisance}
10-11-15	Rose Williamson	Rose Williamson	155 Shell Dr Hardy VA 24101	traffic, noise, wind value decrease
10-11-15	Terry Williamson	Terry Williamson	155 Shell Dr Hardy VA 24101	"
"	Christina McHine	Christina McHine	6804 Truman HA Hardy	"
"	Wayne Gray	Wayne Gray	4893 Hardy Edwardsville Rd	Noise
"	Patricia Gray	Patricia Gray	"	Noise

[illegible]

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what

Giovanni Du-ay — I had one of the best days today because of Phelps Farm. The owner is very nice and accommodating. I had a lot of fun because the place is so big for dirt bike riding. I definitely recommend this place.
February 3, 2015 · 4 Reviews · 1 Like · 1 Comment

Like Comment
Sherry Conner, Doris Anne Moore and 2 others like this.

Create Page

Recent
2013

Phelps Farm Offroad Dirtbike Practice Track and Trails added a new photo
June 3, 2012

FASTER 100% STRONGER SMOOTHER
6 TIME AMA NATIONAL HARE SCRAMBLE CHAMPION **JASON RAINES**
3 DAY CLASS
PHELPS FARM IN HARDY, VA
JULY 20-22
COST: 1 DAY CLASS \$200
2 DAY CLASS \$360
3 DAY CLASS \$450
STEWART HAYLOR
FOR QUESTIONS REGARDING THE CLASS
EMAIL: AD@PHELPSFARMVA.COM
OR VISIT: WWW.PHELPSFARMVA.COM
OR VISIT: WWW.AMA-GRANDTRAC.COM
PHOTO: JASON RAINES
PHOTO: STEWART HAYLOR
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Cheryl Chrzanowski <cheryllynne46@gmail.com>

Phelps Farm Motocross Track 1255mEdwardsville Rd Hardy Va.

Cheryl Chrzanowski <cheryllynne46@gmail.com>
Draft To: mcgheerealtor@aol.com

Thu, Oct 8, 2015 at 11:44 AM

We are against the special use permit to allow a Motocross Track at the Phelps .
Our objections are as follows:

Noise - we were willing to put up with the noise when we thought it was just her boys and their friends. Ms. Phelps has according to her Facebook page been running this as a business since 2013. Open to the public and charging for dirt bike use of the track, camping and cabin rental.

Decrease in property values - we have heard anywhere between 20 & 25 % a decrease we can not afford .

Environmental desecration - run off from track into creek running through property, sanitation concerns. There have already been meets there and campers without signs of sanitation facilities.

If all the 24 cabins and 46 Hodge's are developed there could be as many as 280 people there at a time, with their vehicles and dirt bikes. This is estimating 4 people per occupancy which I feel is probably a low count. This raises the above concerns to a even greater level.

I ask you to consider these concerns on behalf of your constituents in the Boon District and the enjoyment, quality of life and use of our property free from nuisance of this development

Cheryl and Frank Chrzanowski
890-7344

DUE TOMORROW \neq DO TOMORROW

Chegg

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PK OCTOBER 4, 2015

How Much Does Noise Affect Real Estate Prices?

Ever wonder how much better a house would be if it was in a better location? Ever complain about a house because of its proximity to a highway or main street? Throughout my housing search, I saw numerous houses which hit every mark – except being located on a busy street, or too near a highway. Post-house search, I saw an interesting web site linked from Redfin's Bay Area forum. Yes, there actually is a study measuring how much an increase or decrease in average 24 hour day night sound levels, Ldn, affects the values of a home.

How Will I Use This Information?

Well, thanks to a javascript template from Ironman at Political Calculations, we've turned this information into a slick calculator, so you can move your house to different sound levels without a flatbed! So let's talk about sound pressure levels.

Sound levels are measured in decibels, which are a logarithmic measurement – a 3 decibel decrease means a cut in power of about half. Here are some common "instant" decibel levels – meaning if one of these things is next to your home 24/7, otherwise you have to take an average. The study used 55 Ldn as the median sound level at a house, about the level of a moderately busy suburban street. This Wikipedia chart has some other common sounds – if an Airport moves next door, for example, jet engines are going to be north of 110 decibels. Busy roadways, on the other hand, will have levels above 80 decibels – it is well within the range of possibilities your house might (over the years) go from 45 or 55 Ldn to 80 Ldn or so – and now you can know how much that

affects your bottom line (about .4% of value per 1 Ldn increase). I did it as a power, so $\text{Value} \times .996^{\text{dB}}$. Just know that it would be worse if it was $\text{Value} \times (1 - .004 \times \text{dB})$. So, take it with a grain of salt, but here you go!

HOUSE INFORMATION	
INPUT DATA	VALUES
CURRENT HOME VALUE	200000
CURRENT LDN, MEDIAN HOME IS ABOUT 55 LDN.	55
NEW LDN, BUSY STREETS RAISE THIS TO ABOUT 75 LDN.	75

CALCULATE

RESET

WHAT MIGHT THE HOUSE BE WORTH?	
CALCULATED RESULTS	VALUES
NEW PRICE	

Code created with assistance from Political Calculations.

Now, living next to noise producing might mean more than just a monetary hit – it's possible that higher sound levels cause cardiovascular risk, although studies of this type may just be measuring the type of people who move closer to busy streets! Regardless, you now have half the story – approximately the amount that sound levels at a home will affect your bottom line. The old maxim holds true: "Location, Location, Location," meaning you can change your house but you can't move your land...

Comments

deborah forman says

IN THE COURT OF COMMON PLEAS, WAYNE COUNTY, OHIO

ROBERTA C. ANGERMAN, et al.,

Case No. 01-CV-0117

Plaintiffs

vs.

Judge R.G. Lile (Assigned)

**THOMAS A. BURICK, et al., FINDINGS OF FACT, CONCLUSIONS OF
LAW and JUDGMENT**

Defendants

This civil action was originally brought by 109 individual Plaintiffs, residents of Wooster and Franklin Townships in Wayne County, Ohio. The lawsuit was filed against Thomas A. Burick and his wife, Elizabeth A. Burick, and LoConn Motocross, Ltd., an Ohio limited liability company owned by the Buricks which operates a motocross track facility on their Franklin Township property. This lawsuit was filed on March 16, 2001, prior to the opening of the racing facility which occurred on June 1, 2001.

The Plaintiffs claimed that the operation of the race track would constitute a nuisance, and would substantially and unreasonably interfere with the use and enjoyment of their property and will cause a diminution of their property values. The Plaintiffs seek a preliminary and permanent injunction prohibiting the Defendant's from operating the motocross facility, and have requested attendant and incidental money damages, including attorney fees.

The Plaintiffs, who numbered 104 individuals at the start of trial on December 18, 2001, by reason of voluntary withdrawal from the lawsuit, did not amend or supplement their complaint prior to the start of trial. The Court does not find any limitation to its jurisdiction, however, by reason of the operation of CP Rule 15(B).

Further, while the Plaintiffs requested a trial by jury in this action, the Court sustained the Defendant's motion to strike such request on authority of State, *ex rel. Miller v. Anthony* (1995), 72 Ohio St. 3d 132. This lawsuit was tried to the Court.

On August 24, 2001, during the early evening hours, the Court, at the invitation of counsel for the parties, viewed the areas which are the subject of this lawsuit, including the motocross track and all of the neighborhoods where Plaintiffs resided. At the time, motorcycles were running on the track.

Now, being advised in the premises, the Court makes the following Findings of Fact and Conclusions of Law, and renders Judgment thereon:

Findings of Fact

1. Franklin Township in Wayne County is located to the east and south of the City of Wooster which is the County seat. The land involved in this lawsuit is generally rural in nature, level to hilly, wooded, farm land, with a combination of roadside residences, residential developments, and, adjacent to the west of the Defendant's property, a sand and gravel business. The parties stipulated that at all times pertinent to this lawsuit, there was no zoning law in place for Franklin Township.
2. By general Warranty Deed, dated December 29, 2000, filed for record with the Wayne County Recorder on January 8, 2001, the Defendants, Thomas A. Burick and Elizabeth A. Burick acquired title to 82.190 acres, more or less, in Franklin Township. Upon transfer of title, the Defendants began developing the property for commercial use as a motocross raceway. The term "motocross" is a contraction of the words motorcycle and cross country and refers to a motorcycle race over a course of very rough terrain. The raceway was opened to the public on June 1, 2001 and continued operation to on or about November 14 when the facility was closed. During the time the facility was open, practice racing was first offered on Thursdays and Fridays from 4:00 p.m. to dusk (8:30 to 9:00 p.m. depending on visibility), and then on Fridays from 4:00 p.m. to 7:00 p.m., and Saturdays 11:00 a.m. to 3:00 p.m. The Defendants stated that they wanted to reopen the raceway in late March or early April, 2002 with practice on Fridays and Saturdays from 4:00 p.m. to dusk, and motocross racing on Sundays from 11:00 a.m. to 5:00 p.m. The

- b. *Kafka v. Bozio*, 191 Cal., 746, 218 P., 753 (negligence irrelevant in action to abate nuisance resulting from sinking building causing wall to overhang, trespass upon and damage plaintiff's property);
- c. *Bartel v. Ridgefield Lumber Co.*, 131 Wash., 183, 229 P., 306 (substantial damage to plaintiff's farm caused from smoke and sawdust from operation of sawmill);
- d. *Truehart v. Parker* (Tex. Civ. App.), 257 S.W., 640 (action to restrain operation of dance hall across street from plaintiff's residence because of din and noise). *Id.*, 143 Ohio St. at 437, 438

The Court in *Taylor*, regarding absolute nuisance for which strict liability or liability without fault is imposed by law, summarized that absolute nuisance may be defined as a distinct civil wrong, arising or resulting from the invasion of a legally protected interest, and consisting of an unreasonable interference with the use and enjoyment of the property of another; **the doing of anything, or the permitting of anything under one's control or direction to be done without just cause or excuse, the necessary consequence of which interferes with or annoys another in the enjoyment of his legal rights**; the unlawfully doing of anything, or the permitting of anything under one's control or direction to be done, which results in injury to another; or the collecting and keeping on one's premises of anything inherently dangerous or likely to do mischief, if it escapes, which, escaping, injures another in the enjoyment of his legal rights. (Emphasis added). *Id.*, 143 Ohio St. 440.

The Court also acknowledged a fourth situation where nuisance may be dependent upon negligence, the failure to exercise due care. In such cases, the Court stated, negligence must be averred and proven in order to warrant recovery. *Id.*, 143 Ohio St. 441.

8. A finding of common law nuisance is not dependent upon the existence of zoning laws.

9. The law of Ohio has established that the test as to the amount of annoyance necessary to constitute a nuisance is measured by the degree of discomfort that a person of ordinary sensibilities would experience. The Court must look at what persons of ordinary tastes and sensibilities would regard as an inconvenience or interference materially affecting their physical comfort to a degree which would constitute a nuisance. *O'Neil v. Atwell* (1991), 73 Ohio App. 631.

10. The Court concludes, in view of the evidence presented in this lawsuit, that the Defendant's use of the property in Franklin Township, Wayne County, Ohio constitutes an absolute nuisance for the reason that the Defendant's operation of the commercial motocross track situated in Franklin Township, Wayne County, Ohio, generates excessive noise which causes a substantial and unreasonable interference with the following Plaintiffs' use and enjoyment of their property, all of which would be offensive or inconvenient to any person of ordinary tastes and sensibilities:

Roberta C. Angerman	Lothar Beke	Steve J. Bernardy
Brenda K. Blackburn	Bonnie Cherilla	Lori A. Faught
Michael W. Faught	Ermon French	Ruth Kaplan
Brenda Litt	Joel Litt	Malcolm MacRaild
Wendy McKee	J.C. Morgan III	Jean Oplinger
	Elizabeth Richey	

11. In seeking to abate a nuisance, a Court of Equity may restrict the activity "no more than is required to eliminate the nuisance." 5 Powell, Real Property (1985), 64-69, ¶704[4]. See *Christensen v. Hilltop Sportsman Club, Inc.* (Feb. 17, 1993) Pickaway App. No. 91 CA 33, unreported, LEXIS 1112. Therefore, the Court concludes that the permanent injunction which should be ordered here regarding the commercial use of the 82.190 acres for motocross practice and racing, cannot be extended to prohibit the use of the property by the Defendants Thomas and Elizabeth and their family for reasonable purposes, including the operation of their personal motocross equipment thereon.

12. The general rule in Ohio is that, absent a statutory provision allowing attorney fees as costs, the prevailing party is not entitled to an award of attorney fees unless the party against whom the fees are taxed was found to have acted in bad faith. *State, ex rel. Crockett v. Robinson* (1981), 67 Ohio St. 2d 363.

Hannon

d. On September 29, 2001, a two-hour sample of noise at the residence of Harry and Lois Wright on Tolbert Road reached a maximum of 52.4 dBA for small bikes and 56.4 dBA for large bikes.

e. On September 29, 2001, at an oil well site near the Brenda and Todd Blackburn residence on Todd Lane, traffic noise from Route 83 measured 61 dBA, while track noise was measured at 67 dBA for small bikes and 71.1 dBA for large bikes.

f. The human ear perceives noise differences of 1 dB; a difference of 6 dB is large because of the exponential nature of noise as measured by the use of decibels.

a. At the test sites near Route 83 where noise was measured on June 8, and November 16, 2001, a greater amount of noise was found to be produced by road traffic than by motocross track usage.

b. On September 22, 2001, at a combination of sites (3830 Batdorf Road, 8 Warring Cross Drive, and 1756 Tolbert Road), existing background noise levels would be found "on the adjusted yearly average day/night average to 55 decibels because of their location away from heavy traffic areas..."

c. "That given the limited duration of the motocross operation in time during the day over a long period of time over a year, assessing that into the community noise that already exists out there, it [the motocross operation] will have no effect upon the long term community noise levels that are existing at this point and that they would comply or fall within the categories of the first two residential categories of the ANSI [American National Standards Institute] standards."

d. That over a period of time the sound emanating from the motocross track falls below the background traffic noises measured at the testing positions used by Huff.

e. That over a long period of time there will be times when the traffic noise in the vicinity of the Litt residence is at or greater than the sound emanating from the motocross track. Huff ordered, with regard to this opinion however, that his opinion would be based upon use of transposed measurements as he did not measure the Litt site during actual motocross operation.

Another expert witness called by the Plaintiffs, Eric Zwerling, testified that at a sound level of 65 dB it would be difficult for two people to converse over the sound at a distance of one meter. Zwerling also testified that a sound level of 35 dB and above interferes with sleep and, therefore, noise ordinances typically establish nighttime noise limit caps of 50 dBA.

The Court, as the trier of facts, finds the testimony of expert witnesses, Ronald Huff and Eric Zwerling, to be more credible in this matter than that of William Hannon.

Conclusions of Law

6. Black's Law Dictionary defines nuisance as:

"That which annoys and disturbs one in possession of his property, rendering its ordinary use or occupation physically uncomfortable to him." **Black's Law Dictionary (Rev. Fourth Ed. 1968) 1214.**

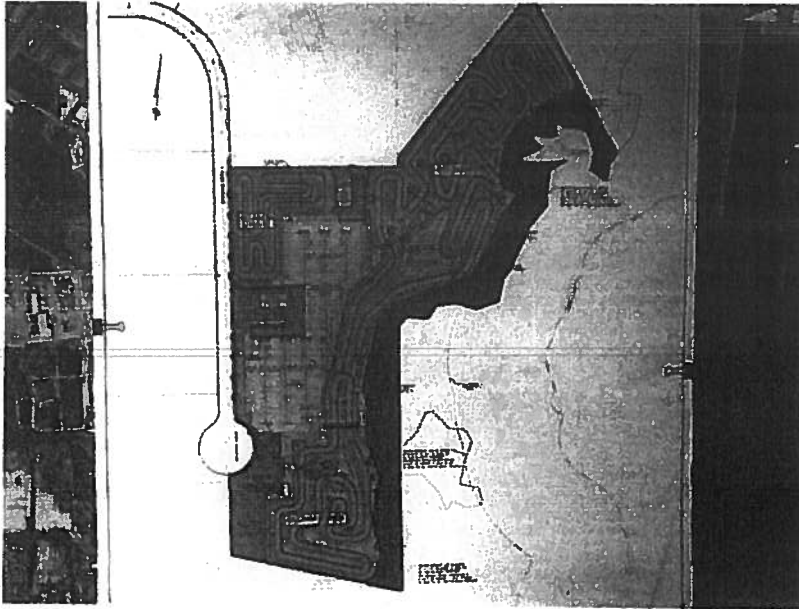
A private nuisance is defined as:

"..anything done to the hurt or annoyance of the lands, tenements, or hereditaments of another. (Citations omitted). As distinguished from public nuisance, it includes any wrongful act which destroys or deteriorates the property of an individual or of a few persons or interferes with their lawful use or enjoyment thereof, or any act which unlawfully hinders them in the enjoyment of a common or public right and causes them a special injury different from that sustained by the general public." **Black's Law Dictionary (Rev. Fourth Ed. 1968) 1215.**

7. The leading case in Ohio dealing with the law of nuisance is **Taylor v. Cincinnati** (1944), 143 Ohio State 426. In support of its holding that liability for nuisance does not depend upon the question of negligence and may exist although there is no negligence, the Court in **Taylor** cited cases from outside Ohio in support of such pre-

a. **Bowman v. Humphrey**, 132 Iowa 234, 109 N.W. 714 (dumping refuse from creamery into creek);

Controversial Jersey Shore Motocross Park in Tinton Falls now targeted by lawmakers



Plans for the Jersey Shore Motocross park call for three tracks to be built on a 21-acre parcel off Shafto Road in Tinton Falls. (Rob Spahr/NJ.com)



By Rob Spahr | NJ Advance Media for NJ.com

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on October 15, 2013 at 3:24 PM, updated October 15, 2013 at 3:46 PM

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See more comments »

TINTON FALLS – The news just got a little worse for motocross enthusiasts hoping that a 21-acre vacant parcel of land off Shafto Road would soon become the home of a three-track motocross park.

A trio of state legislators announced Tuesday that they are sponsoring legislation to ban motocross facilities from being located near residential properties and that they are calling on the state to withdraw the funding it has provided the proposed Tinton Falls facility.

Jersey Shore Motocross has an application for a zoning variance currently pending with the borough's Zoning Board for permission to build a motocross facility with three tracks, including a "Day & Night" track, and other amenities next to the Mazza & Sons Demolition and Recycling facility, which owns the land.

On Oct. 3, more than 200 people filled the Municipal Building to hear testimony on the proposed project – a controversial issue that has triggered outspoken opinions both for and against it.

Supporters of the plan have argued the positive recreational and societal benefits of creating such a destination, which is expected to include multiple family friendly offerings.

Opponents meanwhile have spoken out on the potential negative quality of life issues that having such a use so close to residential communities could create.

Plans call for the northeastern corner of the Jersey Shore Motocross track to be 820 linear feet from a standalone dwelling on Wardell Road and 1,600 feet away from the Fox Chase residential community. The southern portion of the track, where the "Day & Night" track would be located, is expected to be 800 linear feet from its nearest neighbor – a nursing home.



The courtroom of the Tinton Falls Municipal Building was not big enough to hold the crowd of people who turned out to hear an application for the Jersey Shore Motocross park presented to the Zoning Board on Oct. 3, as dozens of people had to listen from the lobby.

Rob Spahr/NJ.com

On Tuesday, state Senator Jennifer Beck and Assemblywomen Mary Pat Angelini and Caroline Casagrande, all R-Monmouth, announced they were sponsoring a bill to prevent similar facilities from future consideration, and specifically mentioned the proposed Tinton Falls project as an example of why.

"Facilities like the one proposed in Tinton Falls can have a serious impact on nearby residents and property values," Beck said in a release. "Home owners should be protected from having one of these dropped in on their neighborhood. A bill like ours is a common sense measure protecting our constituent's homes and neighborhoods."

The legislation would require anyone seeking to operate a motocross facility to obtain a license from the state Department of Law and Public Safety, as well as prohibits such a license from being granted for any proposal to be located within five miles of a residentially zoned area.

"The motocross track proposed for Tinton Falls would have a significant impact on the quality of life for residents in surrounding residential communities," Angelini said in the release. "Residents who live nearby are understandably concerned about noise, pollution, traffic and a number of other issues associated with locating this type of facility in such close proximity to residential properties."

The delegation noted that, under existing law, one municipality could approve "a motocross project that could negatively impact on a neighboring town or an entire region."

"Motocross is a fun sport but unfortunately it's an incredibly loud sport as well," Casagrande said in the release. "It doesn't belong in a residential community like Tinton Falls where it can disrupt peaceful family life. This legislation will help establish parameters for better locations for motocross."

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While the legislators acknowledged the legislation "would not have any impact on existing applications," they did another take a step directly targeting the Jersey Shore Motocross project.

In an October 11 letter to state Department of Environmental Protection Commissioner Bob Martin, Beck, Angelini and Casagrande also requested that the DEP withdraw grant money it allotted for Tinton Falls project.

"Tinton Falls is the appropriate location for a motocross facility of this size and scope," the letter said. "We respectfully request the allocated \$500,000 is withdrawn from this project and considered for another more favorable site. Grant money should not be allocated for projects in towns that are opposed to these facilities being located in their community."

The testimony on the project's zoning variance application, which is scheduled for 7:30 p.m. on Nov. 7, has been moved to Seabrook Village in order to better accommodate the anticipated public turnout.

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SayWhat?

Oct 16, 2013

Tell State Senator Jennifer Beck how you feel on this matter. There will be a Town Hall Meeting on Tuesday, October 22nd, 7PM at Colts Neck High School. <https://www.facebook.com/pages/Dump-State-Senator-Jennifer-Beck/181295051917672> Dump State Senator Jennifer Beck <https://www.facebook.com/pages/Dump-State-Senator-Jennifer-Beck/181295051917672> Dump State Senator Jennifer Beck. 98 likes A* 2 talking about this. This site permits people to give their humble opinion- either pro or con- regarding the performance of Jennifer Beck.

EBGuy

Oct 16, 2013

HISTORY OF MX TRACKS: PITTING NEIGHBORS AGAINST NEIGHBORS

IMPORTANT UPDATE: 9/27/2014

IMPORTANT UPDATE 8/30/13: Cadillac Ranch MX, discussed below in this post, was DENIED a permit by Thurston County. **See August 30, 2013 post "Cadillac Ranch MX: DENIED by Thurston County" on this blog for the entire findings.**

IMPORTANT UPDATE: The Thomas conditional use proposal for Timber Ridge Motorcross "park" (see below), which triggered this research, got a final DENY from the Clackamas County, Oregon hearings officer in late January. **See this blog's "Rest in Peace: Idiot Ridge MX gets the Big Deny" posted on Jan. 28, 2011, to read the entire hearings officer's decision.** Good luck to all citizens who are fighting MX! We hope our efforts in Molalla Oregon to protect our rural community inspire you to do the same!

All I can say is why would anyone in their right mind want to participate in something like MX that causes so many nasty legal tangles? Luckily, even a mountain high pile of "please, please, please" letters in favor of motocross won't help win the case to permit the track/campground, due to Oregon's land use rules – which strictly PROHIBIT INTENSIVE USE IN FOREST ZONES. **Or, to state it bluntly: one neighbor's impacted quality of life always wins against the NUISANCE THAT IS MOTOCROSS in proximity to residences.**

File ZO348-10-C Thomas Conditional Use Permit

RE: Motocross/campground would violate ZDO 1023 (D)

HISTORY OF MX TRACKS: PITTING NEIGHBORS AGAINST NEIGHBORS

At the Oct 21 Conditional Use Hearing regarding the Thomas Conditional Use proposal for motocross/camping in rural Clackamas County, testimony was given in support of the proposal based on claims that motocross was "family friendly". A man stated that Washougal MX had expensive homes in the vicinity of the MX tracks and that local residents and the commercial MX business had happy relationships.

Extensive research into the functioning and relationships multiple MX facilities, whether permitted or unpermitted, have with their neighbors and with their County planning departments proves conclusively that it is totally false to claim motocross events can happily co-exist with residential areas. Every case I researched, including Washougal MX, proved that residents within earshot of MX tracks are miserable and that they consider motocross a serious nuisance which steals their quality of life and degrades and pollutes land. Counties have extra work loads to enforce MX code infractions and have ongoing struggles related to traffic, crowd control, noise, and regulating environmental damage. Local police and emergency services are impacted as well. Those problems are compounded when the tracks are built and used in advance of permitting, as in the Thomas case.

MX struggles are ongoing all across America. This account will focus on Washougal MX, Eugene MX, Longview MX, Cadillac Ranch MX, Granite Falls MX, Mt. View MX, Badrock MX and Fisher MX because those tracks provide a mix of 3 types of MX facilities: (1) "vested rights" commercial tracks, (2) private tracks built and used without permits that become a commercial nuisance and (3) tracks not yet built, struggling to meet requirements for legal siting.

Again, in every case, the MX facilities have extremely unhappy relationships with local residents and ongoing legal problems with local planning/code enforcement/police departments.

CASE 1: WASHOUGAL MX

Washougal MX was established about 1974 on 220 acres of rural land in Clark County. Its graphic code and zoning problems started with zone changes that occurred in 1995 that caused the MX "park" to become a non-conforming use. The problems and conflicts also escalated when the current owners, the Huffmans, bought the property and proceeded to expand event uses in the late 1980's. By then, the surrounding area had become more residential. In 1989, at a National MX race, drunken campers rioted. In ensuing years, several other nasty Sheriff encounters occurred with users of the MX track (all documented in the attached 5 articles from the Columbian newspaper).

Headlines include "Brawl at Motocross Race Draws Riot Police" (8-98) and "Unruly Motocross Fans Pelt Officers with Rocks (7-03).

Residents near the Washougal track questioned the perimeters of Washougal's non-conforming permit and at least 4 court cases were held in the 2000's (list attached of planning and court actions) with the final case dated 2007. The focus of the court cases were noise, the size of the vested tracks, environmental impacts, nuisance aspects, and the County's duty to protect the quality of life of residents. Some quotes from the "Hearing Remand" case, Nov. 4, 2003:

PROJECT NAME: Washougal Motocross

CASE NUMBERS: cup2002-00001

pg. 19, item 4.a. i.: "The County has an obligation to consider noise in the context of the CUP regulations and thereby to avoid authorizing a nuisance."

pg. 23, item h, referring to noise study results from the firm Daly-Standlee: "The examiner finds that noise from some activities on the Motocross site is significantly detrimental to people who reside nearby."

pg. 24 item h. iii: "Even when the noise does not drown out conversation or disturb people sleeping exceed 57 dbA, it increases the noise levels frequently enough and in amounts and for a duration that is enough to detract from the character of the area as rural residential. The examiner finds that such an impact is significantly detrimental to people nearest the site."

pg. 31, viii (A), referring to noise from the Grand Prix races (throughout the site) and to the races on the defined motocross track: "Both are significantly detrimental."

pg. 33: *"The examiner is persuaded that the impact of the sum of the adverse impacts of events at the motocross site is greater than their individual contributions."*

A recent motocross blog noted that the problems at Washougal are FAR from over (quote):

"Posted By admin On Feb 09, 2009

Sound is off-roads' biggest enemy. The proliferation of 4-strokes and their loud aftermarket exhaust is hurting ALL aspects of dirt biking activities. **Just look at the battle Washougal MX is going through... Washougal's days are numbered as well due to various growth issues...**"(end quote).

What is most disturbing about these struggles at Washougal is that promoter Elaine Derrick, track builder Steve Corrie, and motocross bloggers John Ulver and Mike Jolma are all listed among the names on the Washougal remand case. Derrick and Corrie participated in promoting and building the Thomas track without permits. Derrick, Jolma and Corrie all stood up in support of the Thomas track at the Oct 21 hearing.

Corrie, as "trackmaster" on ThumperTalk blog, participated in the thread that said someone should burn my car. Derrick told me on the phone that the Thomas track was "pretty much in the middle of nowhere" and said that she was selling \$30 tickets in May for "playdates" at the Thomas site. John Ulver recently sent me an email on 10-28-2010 suggesting "We should be able to buy a license to legally hunt people like Susan". Others are well known for nasty posts calling local residents "hillbillies" and for their smirking disregard at a community meeting when anguished local residents spoke. None of these 4 people live in Oregon – but they are certainly eager to commercially exploit our farms and forests.

With their knowledge of the long and ugly history of Washougal MX, it is an insult to our community that Derrick and Corrie worked to promote the Thomas MX project before County approval. All were highly involved in and well aware of Washougal's nasty history of conflicts between motocross and local residents.

Perhaps Corrie and Derrick missed this footnote from the "Final Order" Cup 2002-00001 and SEP 2002-0003, July 22, 2002, which says that:

"Many witnesses in support of the application testified to the alleged positive impacts of the use on the local economy, on certain charitable activities and on certain family values. The examiner finds these allegedly positive impacts of the use are not relevant under SEPA or the County Code."

I have talked at length Gene Greer, one of the appellants who challenged Washougal MX and Clark County planning in multiple court cases. Greer bought 15 acres next to the Washougal MX property about 10 years ago and watched the Huffmans expand events and the physical perimeters of the track until his quality of life, on what he hoped would be a retirement property, was put in jeopardy. To this day he has the right to sue Clark County over its failure to adequately protect residents from the nuisance and environmental impact threats that Washougal MX continues to represent. He lives in Beaverton because he still isn't satisfied that Clark County has done enough to protect residential quality of life near Washougal MX. (newspaper clip quotes):

Gene Greer, lately of Beaverton, wants to return to the lush green hills north of **Washougal**.

But first he wants to see Clark County stand up for its own regulatory authority and increase the peace and quiet on that sloping forestland.

In 1994, Greer bought 7.5 acres near the **Washougal Motocross** Park at the end of Northeast Borin Road. Eventually he bought more property, doubling the size of his holding to 15 acres.

"We bought it assuming the noise would stay more or less the same," he said. "It was a dumb assumption. We moved onto it for a couple of months and realized, we can't live with this."

He means the buzz and whine of motorcycles, ... **"OWNERS OF WASHOUGAL MOTOCROSS PARK GIVE UP BATTLE FOR NEW PERMIT"**

By Erin Middlewood

The owners of the Washougal Motocross Park will turn back a hard-won Clark County permit that would have imposed a raft of restrictions. They will instead operate the race track as they always have.

The move revs up a long-running dispute between neighbors and the 32-year-old motocross park, which draws an estimated 100,000 fans and racers each year. The season-culminating AMA National Championship Series Final in July draws as many as 25,000 fans to the park, on the Clark-Skamania line northeast of Washougal.

At the county's suggestion, track owners Ralph and Carolyn Huffman of Roseburg, Ore., last year applied for the conditional-use permit that would give them some certainty they could continue to stage races on the 225-acre site.

"The Huffmans saw this permit as an opportunity to establish a clear and reasonable set of rules under which the facility could be governed," said Trevor Hayward of Moss & Associates Inc., the Huffmans' Vancouver land-use consultant, in a prepared statement on Tuesday. "Unfortunately, the hearing examiner ... imposed sound limitations that are so restrictive they effectively deny the permit application."

Clark County commissioners last month upheld that ruling, and formalized that decision on Tuesday.

The Huffmans considered appealing their case to Superior Court, but decided it wasn't worth the added expense, Hayward said. The motocross park owners already have spent more than \$200,000 on the permit application. The owners will make some attempt to keep the noise down for example, improving the public-address system that has drawn complaints from neighbors but simply can't comply with the strict rules outlined in the county permit, Hayward said.

The Huffmans and neighbors attempted mediation, which broke down last week. While the track owners say the county's rules would drive them out of business, neighbors have argued the restrictions don't go far enough to improve life near the motocross, which has been operating since before many residents moved to the area.

"It seems unfortunate that (the motocross owners) are going to take their bat and ball and try to go home," said Bradley Andersen, attorney for one neighbor. "I see this creating more legal battles for them."

Hayward maintains that the decision to withdraw the permit application will not have an effect on the upcoming racing season.

County officials aren't sure what the Huffmans' decision will mean.

"It's going to make it messy, obviously," said Rich Lowry, the county's chief civil deputy prosecutor. He said there's some question as to whether the motocross can continue as a grandfathered use of the property once the owners have applied for a permit.

One thing is clear, Commissioner Judie Stanton said: "Code enforcement will be very busy." (end quote)

The Huffmans/ Washougal MX attempted to drop out of the court battles but a Superior Court refused to let them and Clark County ignore the remand case. (news quote):

"But the Appeals Court also said the Clark County court must now decide the extend of the motocross' use in 1995, when the area was zoned for residential use. That 1995 use, presumably, would determine the level at which the motocross could operate today – the extent of its "nonconforming rights". The legal issues are likely to center on whether the 1995 use involved generally the racing of motorcycles, without specifics, or whether the motocross should have to stick to the number of days of racing it had back then. Another question may involve the CUP's finding that the motocross is "significantly detrimental" to people living nearby."

The Superior Court said that the Huffmans and Clark County had to work together to define the perimeters of the early non-conforming use. [Link to that court case:](#)

And so the strife between the track, Clark County and the residents continues, with bad feelings and huge expense for County enforcement – as well as the tragic carnage that motocross represents:

Washington motocross rider killed in crash

Published: Saturday, May 10, 2008, 2:19 PM

Ted Mitchner, The Oregonian

WASHOUGAL, Wash. — An 18-year-old from Orting, Wash., died in an accident during a practice run at Washougal Motocross Park this morning.

Rocky C. Gesner was wearing a helmet and other safety gear when he crashed his bike around 8:45 a.m., said Clark County Sheriff's Sgt. Jim Eastman.

Gesner was an intermediate-level rider, one level below the pros, Eastman said.

"He was experienced," Eastman said. "It's just a terrible accident." (end quote)

Washougal is a prime example of the decades of problems that ensue when motocross is unleashed near any residential areas.

CASE 2: LONGVIEW MX

Longview MX, sited on a timber product waste dump, was located in a commercial zone, yet it had ongoing problems, as noted below by John Brinkley, Director, Community Development, City of Longview. Longview MX motocross fans are vilifying a neighbor adjoining the site as the reason for the closure of this track. The Longview MX property was auctioned in late October 2010 due to bankruptcy and the Port of Longview, the new site owner, will not be operating a MX track.

John Brinkey, Director, Community Development, City of Longview (quote):

"The Longview MX track operated for 8-10 years. It was located on industrially zoned property well away from the residential and commercial developed areas of our city. At the time it started operating, we had few regulations to apply to the proposed use. Yes, they did approach the City and ask before operating. **During the years of operation the city received various noise complaints, made emergency response calls related to injuries, required dust control due to complaints, required a wetlands delineation and boundary markings to protect critical areas adjacent to the activity, enacted special event legislation to regulate associated activities impacting city services, i.e. traffic, emergency response, sanitation, etc., and applied stormwater regulations to minimize stormwater impacts** due to erosion. However, the closure was not due to, or related to, land use violations. The property owner lost the property where the MX track was located due to foreclosure.

None of the problems that Longview experienced related to the Longview MX track were insurmountable. I believe this to be the case due to the location in an underdeveloped industrial zone that was distant from other potentially incompatible land uses. In Longview's case, I believe the economic benefits of bringing participants and spectators from outside our community to the events outweighed the impacts. However, as our community further develops and expands into the area where the Longview MX track operated, incompatibility would have increased and most likely would have become a significant issue." (end quote).

NW Outlaw MX blog has the following quotes vilifying the "neighbor" who complained about the track:

1. They should have moved the motocross track over to the open field side of the sand track. Plant a bunch of trees along the property line and have a no riding zone 200ft from the property line. Maybe that would have shut him up.
- 2.Sad. Another local track bites the dust. Seems like all it takes is one person to ruin the entire deal for everyone else. Where is the democracy in that? Same deal with Cadillac Ranch. The whole town of Rainer is behind it except one neighbor. Track brought in new money to local businesses during desperate times.
- 3.X2 but the dumb ass nieghbor is an ass. I think some poeple should go tip over all his preasious porta potys. Here this guy is crying about noise and his hole 45 acres is covered in used shitters. what a jack ass. (end quotes)

CASE 3: CADILLAC RANCH

An unpermitted MX track was built recently in Thurston County, WA on a 400 acre dairy ranch. Because at least 13 complaints were filed by neighbors, the unpermitted track was shut down by County Planning this summer. Guy Jaques, Building Compliance for Thruston County, via the phone, indicated that Cadillac Ranch is in a productive agricultural/timber zone and that any conditional use permit would be impossible for the owners to

obtain because the conditions would be severe. Cadillac Ranch is under an injunction and can't hold events unless it can comply with County conditional use codes.

Before the County shut the track down, the track destroyed many acres of land in a manner similar to the Thomas site.

As with the Thomas track, the neighbors who oppose MX have been verbally attacked and threatened on public blogs, including a thread suggesting that someone should call and harass Rev. Richard Banach in the middle of the night. Rev. Banach is perceived as the spoiler by the users of the illegal track. This mirrors our experience in Molalla, where citizens who stand up to protect their quality of life after illegal motocross events have become entrenched are seen as the villains.

Here are posts from the impacted landowner who has been threatened by MX fans and information about the legal tangles in this case from a local blog (quote):

Rainier Racing Track Threat

"If the Mahan family and their supporters have their way, their large dairy farm on 12307 Vail Cutoff Road SE Rainier will become the Cadillac Ranch Motor Sports Park. Their unpermitted, illegal track has already been built and began operations in May. See their website

They were issued a Stop Work Order in early June for unpermitted commercial motor sports and camping. However, they continued to operate until they were recently issued a Civil Infraction with a fine. They are now under a Temporary Restraining Order that originally expired June 30, 2010 but has been extended to August 20, 2010. They have a court date with Judge McPhee on August 20, 2010 at 9AM to "show cause." The August 6th issue of Nisqually Valley News carries a front page story on them.

According to the NVN article, the Mahan's plan to press forward to rally more support for their project. It's time to voice opposition to their ever obtaining a permit.

E-mail the following:

1. Jeremy Davis, permit@co.thurston.wa.gov

2. Guy Jaques, Compliance Unit Supervisor, jaquesg@co.thurston.wa.us

Guy will forward all the complaint emails to Deputy Prosecuting Attorney Scott Cushing in advance of the hearing. For further information call Guy at 754-3355 ext. 6875.

The deafening roar of racing motorcycles increases the stress of those living in the area to health threatening levels. It will also lower their property's value. Along with e-mailing Thurston County with your objection, focus on this fertile farm not being compromised, but continuing to feed a hungry world.
No farms. No food!

By Richard Banach

Rainier

UPDATE: August 23, 2010

The attorney for the Cadillac Ranch, Jay Goldstein, has requested and received a 2 week continuance of the "show cause/preliminary injunction" hearing that was scheduled for tomorrow. The hearing is now tentatively scheduled

to be held on September 3, 2010 at 9 am. Mr. Goldstein is apparently wanting to schedule a pre-submission conference with the County to explore potential permitting options – assuming there are any. In the event a pre-submission conference is scheduled, all applicable County agencies (Health, Planning, Development Review, etc.) will be represented along with any interested outside agencies. All pre-submission conferences are typically advertised one week in advance on our website under “Land Use Activities” (see below link to this website):

The temporary restraining order will remain in effect regardless of any pre-submission conference or application submission. If you have any questions or concerns, please don't hesitate to let me know.

Sincerely,

Guy Q. Jaques,
Building/Compliance Unit Supervisor,
Thurston County Resource Stewardship
Development Services Unit, (360) 754-3355, ext. 6875
jaquesg@co.thurston.wa.us

Steve Klein said:

Guy Q. Jaques, Building/Compliance Unit Supervisor for the Thurston County Resource Stewardship reported this on Sept. 16:

The pre-submission conference was held today with Larry Mahan, Star Paddock, and their attorney Jay Goldstein. County staff in attendance were Mike Kain (Planning), Arthur Saint (Development Review), John Ward (Environmental Health), Scott Cushing (Deputy Prosecutor), and myself (Compliance). In the short term, the applicants wanted to explore a Special Use Permit application for a temporary use to enable them to hold up to a maximum of 4 events per year. Prior to any review and decision (approval or disapproval), the following items must be accomplished and accompany any Special Use Permit Application: 1) traffic and drainage study by an engineer, 2) noise study by someone qualified, 3) habitat management report (gopher and prairie (sic) soil study) by an approved state biologist, and 4) an environmental checklist (if 30 or more parking spaces). The fees associated with (sic) this type of temporary Special Use Application total over \$6,000 and there is no guarantee of approval. If an application is submitted, there will be a notice mailed out to all property owners within 500 feet of their property line. This provides an opportunity for the public to comment on the proposed special use. If a Special Use Permit were to be approved, it would be subject to appeal by the County or complainants. We informed the applicants (sic) that the primary issue expressed by all of the complainants was the noise associated with their ORV park. Additionally, the environmental determination made by Planning (prior to any approval or disapproval) is appealable (sic) by the applicants or complainants.

The “preliminary injunction/show cause” hearing that was scheduled for tomorrow (Friday) has extended until October 1st. The Temporary Restraining Order will remain in effect until that date. Please let me know if you have any questions or concerns. (end quote).

Here are the ThumperTalk blog posts from motocross fans – note that the Cadillac Ranch is considered by the posters as a vested track and that opponents are vilified (quote):

THUMPER TALK – SAVE CADILLAC RANCH

FinchFan394

07-27-2010, 07:59 PM

This is really bad news for anyone that likes to riding at CRMX or would like to ride at it. It is truly an amazing track IMO. I am going to do anything I can to help out.

Follow the link and read the letter on the home page it will explain everything.

Slackkinhard

07-28-2010, 06:08 AM

Someone needs to go investigate the 'neighbor' for ANY wrongdoings at all, and SUE HIM. Nobody is perfect. He's doing something wrong...drag his butt into court and force him to deal with it. Turnabout is fairplay in my book. Ever wonder why the ski resorts never get sued? Cuz they sue back.

07-28-2010, 09:42 AM

any time a nieghbor a complaint against a track, the nieghbor seems to have more rights than the track owners. i hope all that see this will write a letter, as the show of public support is very important here. people drive for many miles to ride at cadallac ranch and it is very good for there local economy so be sure to include that in the letter, very popular place!

Tracktor

07-28-2010, 10:17 AM

Herein lies the problem. MX tracks always try to play nice when dealing with theses things. IT DOESN'T WORK! I have a private track and great neighbors but should that change and someone new comes in and tries to shut it down I will make their life miserable. Stop acting like a victim and get pro-active. Hire a good lawyer, don't cave, and "help" the offending party see the error of their ways.....

:

fitness2go

07-28-2010, 10:39 AM

...how much would "said" lawyer cost to Private Joe Citizen protecting his private track and how does that pay him over and over again? I'm really just curious how much a good attorney would cost for an average run of the mill "protect my private track" litigation.

fitness2go

07-28-2010, 10:47 AM

So, when you say "don't cave," do you mean that you have deeper pockets to out battle your opponent?

Herein lies the problem. MX tracks always try to play nice when dealing with theses things. IT DOESN'T WORK! I have a private track and great neighbors but should that change and someone new comes in and tries to shut it down I will make their life miserable. Stop acting like a victim and get pro-active. Hire a good attorney, don't cave, and "help" the offending party see the error of their ways.....

trackmaster

07-28-2010, 10:58 AM

it can really depend on the county you are dealing with. i know that clark county, and king couty are , it would be shut down! but there are other countys such as cowlitz that would be more forgiving of a track. regardless, they need the show of public support.

BullTaco

07-28-2010, 04:14 PM

Hey,

Not real clear what the neighbor's complaint was. Dust? Traffic? Probably noise...

Here in Snohomish County noise levels for motorized sports are measured at adjoining properties, but allowable decibels are also subject to noise producing property zoning and the noise receiving property zoning. I would assume Cadillac Ranch is Rural Sender to Rural Receiver which are the most restrictive decibel levels. (Daytime vs. nighttime is also huge.)

Before the owners spend a bunch of dinero on lawyers, they need to buy a cheap decible meter and measure thier noise for a race/group/ at the nearest property boundary.

If the owners are way over allowable decibels, then some other mitigations might be needed.

BullTaco:

It sounds like the Ranch went from an informal, family play track to an advertised, commercial, admissioned . In many places, that sort of "upgrade" can be a zoning problem.

To answer an earlier post, land use lawyer's fees seem to vary...\$275 to \$500 would probably put you in the ballpark. But remember, attorneys charge you for advice....including answering short and phone calls. BullTaco (end quote)

Next, from the Cadillac Ranch Motorsports Facebook page, are some of the nasty comments of the supporters of the illegal track. In spite of the fact that there were at least 13 residents filing complaints about this track to Thruston Co., the "fans" have chosen to blame Rev. Barach for all the track's problems (quote):

i guess we could get his fone # and all of us start calling at say oh 5am yell a\$\$hole and hangup...lol no really keep up the fight it will be worth it in the end...

RELEASE THE NAME SO WE CAN FLOOD HIS HOME WITH, CALLS, AND LETTERS

So would said neighbor rather you sell the ranch to a developer who will build a million houses? Traffic...higher property taxes et. al. that goes with developments? I can't wait for the re-opening!

if he ever comes out to the track bitchin im gonna roost him(:.....Maybe haha

heres another article by this guy. Gives some good insight into how this guy thinks. Dude is off his rocker

The guy is a bible thumping nut job... Hypocrisy at its best. (end quote)

Thurston County Planning indicated on Nov. 1 that there was little to no chance the owners of Cadillac Ranch could qualify for a conditional use permit for the illegal track.

CASE 4: EUGENE MX

The "vested" Eugene MX has been outlined in an earlier submission. Its less than friendly messages on its business websites tell its story best (business post, summer 2010, quote):

"Attention Disgruntled Neighbors: We Understand that there are some folks living near Eugene MX that don't like Motorcycles, Racing, Kids or whatever else makes them complain about the Track.. Location, Location, Location, You choose to locate *yourself* near an *existing Sports Park* that serves Lane County & surrounding areas. It is situated where it is because that's the best area for this type of recreation (in Lane County). The track has witnesses, in its lifetime, a total attendance rivaling the population of Springfield -coming to the events, either spectating or participating. So please, if you live near Eugene MX and are upset for any reason, , we can help direct you to a person who can help you sell your home and find you a Location that better suits you. We know a whole lot of people that would pay a good price to live near an MX Track. Thank Eugene MX for helping to increase the value of your home. You should work with them and help to make it a better community for all us that Live here in the Beautiful Willamette Valley.." (end quote)

The newest business post from Eugene Mx (quote):

About Our Business

Eugene Motocross was started by land owner Joe Mack in 1969. He along with friends and motorcycle enthusiasts carved out of his land a primarily flat track. Later the track was organized into a club known as Territorial Racing Association. After the passing of Joe Mack and the clubs disbandment a single member continued running the business. In 1989 Mike & Marlis Moats purchased the business. They have ran the track as Eugene Motocross since that time, and continue to lease the land from the widow of Joe Mack and Joe's sister.

As many of you know there has been a neighbor that through continued complaints got the county involved in a land use issue regarding the track. So in 2002 Mike and Marlis paid the required fees and got the issue heard before the Land Use Board. The decision made at that hearing changed the entire complexion of what most people knew and enjoyed about the track.....summertime racing. Sadly the board ruled that the racing season each year would be from September thru May.

Now while many of you might say that simple isn't okay....think about this.....this track is "grand fathered" in. **Unless the written rules set by the board are violate they won't shut the track down.....**that is the true victory. So keeping that in mind, Mike and Marlis are doing everything they can to keep the sport alive in this area. Having the support of the motorcycle community is essential to the survival of the track. Mike and Marlis want to thank all of those who have been there for the past 22 years and want to assure you that they will continue to offer events at the track, although they might not always be "motocross". The events will fill the need for riders in this area. Don't believe any of the rumors.... the track is here and is open for businesspass the word! (end quote)

I contacted Lane County Code Enforcement to see how that facility was getting along with the "neighbors" and received this email from Lane County Code Enforcement's Jane Burgess (quote):

--Original Message--

From:

Sent: Wed, 15 Sep 2010 10:57:11 -0700

Subject: Eugene Motocross - PA03-5676 TRS 16 05 21 TL 900

The verification of non-conforming use resulted in the following Hearing's Official decision:

- 1) The racing season shall run on alternate Sundays from late September through May
- 2) The track can be prepared on Saturdays but no organized practices shall occur on that day
- 3) Practice racing shall not begin prior to 10 AM and racing shall not start prior to noon
- 4) The motocross facility includes the present track configuration and size, a tower and admissions both, a concession stand and a Radio Shack PA system with three speakers on poles. No lights are used.
- 5) Camping on Saturday night is limited to participants (and immediate family) in the races only.

Complaints from neighboring properties have included:

Trash cans not being emptied

Portable toilets not being pumped

Camping on non-race weekends

Loud stereos from campers

Racing on "non" race days

Loudspeaker noise

The file and HO record is available in our office for review.

Jane Burgess, Compliance Officer (end quote)

Eugene MX proves again that "grandfathered" tracks are ongoing nuisances.

CASE 5: GRANITE FALLS MX:

The current struggle to site a 75 acre motocross facility in near Granite Falls in Snohomish County WA. starts with the closure of a facility in Monroe (quote from a motocross blog site):

MXGP Shut Down

The County of Snohomish is determined to shut down one of the only legal outdoor motocross tracks in the state. Although MXGP has jumped through every hoop necessary to maintain the track, the county is citing various land use issues in their attempt to close the track.

Legal tracks are a rarity, and without them we will see more and more backyard tracks occur, which doesn't do anyone a bit of good.

The following is lifted from an email that recently circulated:

In Monroe, WA – as you may have read about in the papers recently – a wonderful motocross facility resides. The facility, known as MXGP (formerly Sky River Motocross Park), has 3 different tracks (kids, intermediate, advanced), and is an incredibly nice riding venue for families and individuals all over WA state who have come to love MXGP over the last 3 years.

But now the county wants to close MXGP down over land use issues. In addition, the county is considering the same with the baseball and soccer fields alongside the track and on the same property – saying that they too break the rules on land use issues – which is stunning to think that they would do this. Despite the location of the facility (MX tracks, soccer and baseball fields together) in a non-residential area, next to the Monroe penitentiary, alongside a state approved gun firing range, less than 1/2 a mile South of a commercial gravel pit, and smack dab in the middle of a flood zone – the county wants to shut the track and fields down over commercial/agricultural zoning issues. Once again, offroad motorcyclists are watching

ANOTHER great riding area get shut down by bureaucrats – and this time, it's just a little too close to home...."
(end quote)

After MXGP was closed and the County refused to allow siting in a nearby gravel pit, the professional investors focused on Granite Falls, WA to attempt to site a multi-track complex in the middle of a 400 acre commercial forest.

On May 30, 2008 the Seattle Times reported (quote):

MXGP's proposed a motocross track near Granite Falls faces challenges

By Sara Jean Green

Seattle Times staff reporter

On wooded land six miles outside Granite Falls, where two old logging roads meet, Jeff Van Datta and Siobhan Sullivan tried to imagine what it would be like if the trees were replaced by race tracks and bleachers, the roar of motorcycles drowning out the bird song.

Van Datta gave a little shudder. He lives less than a mile from the eastern edge of this forest, where a for-profit company hopes to develop a motocross park that could draw thousands of riders to the area.

For a year now, Van Datta, Sullivan and many of their neighbors have been fighting the proposed park, worried that the constant noise will destroy the quiet they've come to cherish.

Then there are concerns about all the added traffic, not to mention drainage problems and the displacement of the wildlife that lives in and around this 467-acre tract off the Mountain Loop Highway.

"Trust me, we didn't go into this blatantly opposed for no reason," said Van Datta. "If you've got serious, quality-of-life issues that are going to be impacting you seven days a week, you're so far removed from the NIMBY (Not In My Back Yard) type, that it doesn't apply."

But the plans of the company, MXGP of Kirkland, also have plenty of supporters in this community, where off-roading is a long tradition. They say it would bring tourist dollars to Granite Falls and give families a safe, much-needed place to ride in Western Washington, where an increasing shortage of off-road areas has often meant motorcyclists turn to illegal riding on private property or sensitive public land.

Supporters include the mayor and every member of the City Council of Granite Falls, even though they have no official power to endorse the project because it would be outside city limits. The Snohomish County Council has already passed an ordinance to allow motocross parks in forestry areas for the first time.

But the new track is still tied up in the county bureaucracy. So for now, the fight goes on.

"It'll give the kids a place to go and ride because right now, there's nothing," said Cynthia Gramps, a clerk at Bob and Carol's Deli in downtown Granite Falls. "There's a skateboarding park and that's it."

Gateway to forest

As many as 1,500 trucks rumble through this city of 3,300 people every day, on their way to and from the sand pits and gravel mines in the Cascade foothills.

Just outside city limits, the Mountain Loop Highway, which stretches north, then east, boasts one of the state's greatest concentrations of hiking trails, campgrounds and other attractions for outdoorsy types.

The highway, one of the county's largest tourist attractions, is considered the gateway to Mount Pilchuck and the Mount Baker-Snoqualmie National Forest.

The heads of MXGP, Gary Strobe and Paul Thomas, point out that the land where they would build their park is less than an hour's drive from Seattle and is relatively isolated compared to other sites they've looked at.

And they're no strangers to opposition for their enterprises.

For four years, Strobe and Thomas operated three small motocross tracks behind the state prison in Monroe. But in 2005, Snohomish County officials shut them down, saying their tracks and some other neighboring sports fields should never been allowed on agricultural land.

The partners then tried to buy 50 acres near Maltby, with plans to develop 10 acres for motocross racing. Residents resisted, flooding the county's planning department with a record number of complaints. The proposal died.

Then last June, Strobe and Thomas submitted plans for the site outside of Granite Falls.

They want to develop 75 acres to include three tracks, including a beginner track for kids. The park would also have grandstands, concession stands, campsites and parking for at least 600 cars. Riders and spectators would pay around \$20 admission.

A 25-foot berm would encircle the tracks, helping to keep the noise down, Strobe said. And 1,000-foot buffers would protect the property's remaining 392 acres.

In August, county planners required the company to submit a revised noise study, which they did in December, said Christopher Schwarzen, a Snohomish County spokesman.

After receiving hundreds of comments, the majority from people opposed to the project the county ordered a third-party analysis of the noise study in March.

That audit is meant to determine whether the company's noise study accurately anticipates decibel levels and whether their berm would really muffle the sound of revving engines. The results are due next month.

Then the proposal would still have to go to a county hearing examiner. And on top of all that, the county would have to approve a zoning change and a conditional-use permit; the County Council would also need to approve the project, Schwarzen said.

Fire Chief Rick Hjelle of Snohomish County Fire District 17, which is based in Granite Falls, is noncommittal, neither supporting nor opposing the project, even though he "wouldn't want to live next to it."

Safety concerns

Hjelle mainly worries about safety at the track, because it could take his crews 15 minutes to get there. "The odds [for serious injury] are greater with that kind of activity, and we're not in a great position to run there," Hjelle said.

Strode counters that the company would hire a medic to be on hand to handle most injuries.

"We want to have a nice, safe, organized facility," Strode said. "Nobody's going to hear it, nobody's going to know it's there ... [and] we're going to bring millions of dollars into Granite Falls.

"I'm pretty confident that legally, we've met all the requirements of the county," he said. "We've done everything they wanted us to do, it's just frustrating it's taking so long."

But Van Datta and Sullivan say Strode should prepare for a long fight. They've hired an attorney, consulted a noise expert, a wildlife biologist and people versed in traffic and hydrology issues.

To aid their battle, their group, called the Mountain Loop Conservancy, has received a grant from the North Cascades Conservation Council, a Seattle nonprofit aimed at preserving the North Cascades' wildlands. They've also collected more than 500 signatures from people opposed to the motocross park.

From Van Datta's perspective, Strode is overestimating the park's economic benefits. And very seriously downplaying the impacts.

"Everyone likes coming out here but that will change if we let this happen," Van Datta said. "It's not over till it's over, and it could be a long time till it's over, but we remain pretty certain we can pull this off..

Sara Jean Green: 206-515-5654 or (end quote)

To date, after years of permitting struggles, after special conditional use codes were created by Snohomish County to address potential MX facilities, after lower noise codes to protect rural citizens were put in place (49 decibels max/day and 39/night), after multiple hearings, and after two professional noise studies this project is still in limbo, waiting for a neutral third party noise evaluation.

CASE 6: MT VIEW MX

Mt. View MX is an operating "grandfathered" track near Sandy Oregon. It violated its "grandfathered" status by attempting to enlarge its facility and the scope of its operations. Clackamas County planning had to intervene to define that this track could only operate on land it used before the land use laws went into effect in the late 1970's and had to limit the scope of its events. I contacted Clackamas County Planning and got the below message and a file with several letters of admonishment to Mt. View about its operation (quote Clackamas County planning):

"I am the planner here who is probably most familiar with the Mt. View Motocross facility having worked on the 1987 code enforcement case. The track area itself is somewh

This facility is classified as a legal nonconforming use and to my knowledge, is the only legal operating motocross racing track in Clackamas County...."

Customer Service
Planning Division (end quote)

In 1997, Clackamas County planning, because of a complaint about expanded uses and expanded boundaries, contacted Mt. View in a series of letters to demand that this MX facility ONLY operate within the boundaries of its Aug 13, 1979 non-conforming use perimeters (quote first page of a 1997 letter to Mt. View MX from Clackamas County planning demanding compliance and an earlier 1991 letter demanding the same).

Mt. View has obviously had a troubled past, given the quote in the 1991 letter that Clackamas County has a **"considerable file on this property concerning alleged and actual violations of the County's Zoning and Development Ordinance"**. As will all "vested rights" non-conforming tracks I researched, Mt. View has tried to expand its operations beyond its original "vested" uses and has caused an extra work load for County Planning.

CASE 7: BADROCK MOTOCROSS, MONTANA

This track story is similar to the Thomas conditional use case because private citizens constructed and operated a nuisance track without permits. Neighbors complained, took the offenders to court and won. **The Judge's ruling stated that the track was a 'public nuisance' and required the restoration of the land to its 'original contours'** (quote from NoiseOFF site):

Motocross Track Ruling

In 2003, a Montana family was dealing with a neighbor that installed a motocross track. The noise levels and dust from the motorcycles were so great that the family had to abandon their home during race meets. The neighbor chose to ignore complaints about the track.

The family of Leonard Moyers brought a civil action against the family of Lorraine Morin, in Flathead County, Montana which operated a motocross track on their property.

The attorney representing the Moyers family retained a consultant, **WILLIAMSON & ASSOCIATES, P.C.**, who created a report as evidence that included statements of individuals exposed to the track noise, photographs of the area, noise measurements, appropriate studies and references.

In district court, the judge found for the plaintiff. The conclusions of law were that the operation of the motocross track was determined to be a public nuisance. The defendant was prohibited from the operation of any type of motocross track in the vicinity and required to remove the track from the property. That included restoring the original contours of the property by removing the hills and jumps that were constructed as part of the track.

STEWART E. STADLER
District Court Judge, Department 3

Flathead County Justice Center
920 South Main
Kalispell, MT 59901
Telephone: (406) 758-5906

IN THE DISTRICT COURT OF THE ELEVENTH JUDICIAL DISTRICT OF THE STATE OF MONTANA, IN AND
FOR THE COUNTY OF FLATHEAD

LEONARD MOYER, ET AL.,
Plaintiffs,
vs.
LORRAINE MORIN, ET AL.,
Defendants

Cause No. DV-02-091AFINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER

This matter came on for trial on Wednesday and Thursday, August 20, 2003. Plaintiffs were present and represented by their counsel, Lee C. Henning; the Defendant Lorraine Morin was present personally and on behalf of the Morin Family Trust; the remaining Defendants were not present. The Court, having considered the pleadings and exhibits, the testimony of the parties and their witnesses, and being fully advised, now makes the following:

FINDINGS OF FACT

1. The Morin Family Trust is the title holder to certain property located in Flathead County, State of Montana, upon which Defendants have operated and/or allowed to operate the Badrock Motocross Track. The remaining Defendants are the beneficiaries of the Trust and jointly control the real property in question.
2. Plaintiffs own real property near the Badrock Motocross Track.
3. Lorraine Morin occupies and controls the property on which the Badrock Motocross Track is located by the consent of and in conjunction with the other two beneficiaries of the Morin Family Trust, Cheryl Brunson and Janice Morin.
4. In or about the fall of 2001, the Defendants allowed the aforementioned motocross track to be built on their property.
5. Since that time the Defendants have operated and/or allowed to operate a motocross track on the property, at times by themselves, and at other times in conjunction with other persons.
6. During the spring, summer and fall months of 2002 the track has been operated as frequently as on a daily basis.
7. On a number of occasions during the summer of 2002, large race meets were held at the track.
8. The track produces a tremendous amount of noise and dust which unreasonably interferes with the Plaintiffs' ability to use and enjoy their property.

9. The noise level of the motocross bikes is so great on some occasions that it interferes with the Plaintiffs' ability to hold normal conversations on their property, to listen to television and radio, and to study.

10. The Plaintiffs, on a number of occasions, requested that Defendants stop or limit the use of the motocross track, which requests were ignored by Defendants.

11. The continued operation of the track would dramatically decrease the Plaintiffs' use and enjoyment of their property and would negatively impact the value of the Plaintiffs' properties.

12. Some of the Plaintiffs have chosen to abandon their homes during the days of heavy operation of the track due to the noise.

13. The Defendants continue to operate the track on a limited basis and even this limited operation interferes with Plaintiffs' ability to use and enjoy their property.

14. In an attempt to reduce the impact to surrounding property owners by the operation of the track, Defendants continued to reduce and limit the operation of the track. The Court does not find that the Defendants acted with actual malice and an award of punitive damages would not be appropriate.

15. Defendants have shown an inability to regulate the use and operation of the track in a manner which does not obstruct Plaintiffs' free and comfortable use and enjoyment of their adjoining properties. For that reason it is necessary for Defendants to be compelled to remove the track completely from the property.

Based upon the foregoing Findings of Fact and Conclusions of Law, the Court hereby enters the following:

CONCLUSIONS OF LAW

1. The operation of the Badrock Motocross Track is determined to be a public nuisance and Defendants are permanently enjoined from the continued operation of any type of motocross track in this vicinity.
2. Defendants are to abate this nuisance by removing the track from the property. This removal is by restoring the original contours of the property in question by removal of the hills and jumps which were constructed as part of the track.
3. Plaintiffs are not entitled to an award of punitive damages.

Based upon the foregoing Findings of Fact and Conclusions of Law, the Court hereby enters the following:

ORDER

1. That Defendants permanently terminate the operation of the Badrock Motocross Track.
2. That Defendants, as weather and time allow, are to cause the removal of the track by removing hills and jumps that were constructed for its operation. This removal and restoration to original contours is to be accomplished as weather and time allow but no later than July 1, 2004.

Dated this 28th day of October, 2003.

SIGNATURE

Stewart E. Stadler
District Court Judge

CASE 7: FISHER MX, MICHIGAN

This is a story found on a motocross blog -- posted by an obviously disgruntled user of Fisher MX, a "private" illegal track that was shut down because of neighbor's complaints. Note the "quasi-business" aspects with "suggested" \$20 "donation". Also, note that there is no respect by the writer of the letter for the agony of the neighbors impacted by track noise and dust. (quote):

The Alternative, May 12 2009

This is the stupidest thing I have ever heard about.

Rest In Peace, Fisher MX. **Fisher MX Practice Facility is the latest victim of the motocross community and the general public's bloody battle of noise violations.** The owner of the property, Robert Fisher Jr., approached David Tisch about building a motocross track, open to the public, on the infield of his horse field. Tisch said he would do it, and Fisher MX was born. However, the same local residents who pledged support turned on Tisch, **saying the noise was a problem.** I have personally been there, and the noise doesn't even carry to the road. He has hills and trees built or planted specifically to help block noise, and the bikes NEVER run before noon or past dark. Neighbors claim that Fisher's twenty acres are zoned as agricultural and are being used as a business. All they want is 20 dollars for track maintenance. It is even optional. You don't have to pay to ride there, they just want a bit to keep the track in good shape.

In mid-Michigan, there aren't a whole lot of places to ride. Fisher MX was a laid back, fun, cheap, close alternative to driving an hour to Log Road MX or an hour and a half to Baja MX. It was also a ride until you cannot hang on anymore track, with no set schedule. It wanted a twenty dollar SUGGESTED donation. No gate, no races, just a track. How on earth is that a business? **Making the situation even more confusing is the fact that the current resident of Fisher's guest house, one Kevin Cromely, may be prosecuted and even sent to jail if someone rides at Fisher.** What? Arrest a guest (who doesn't even use the track, or even have a bike for that matter) for something no one should be getting in trouble for anyway.

One Linda Dubois, a neighbor, states, "You can't even sit down and have a barbecue without hearing it." You know, now that you mention it, I couldn't ride there without hearing your barbecue.

Several commentors on the news article on this situation, on MAlive.com, thought that since it was zoned as agricultural, maybe he could start a hog farm. That way, the neighbors wouldn't have to hear the bikes, and they could instead hear the giant walking slabs of smelly bacon banging on the feeder doors 24/7. In addition, they could open their windows and get a whiff of that nice country air. See what argument they have then. (end quote)

CASE 8: KW Morrison LLC MX Complex, King William County, Va.

In historic rural King William County, Va., a giant MX complex was proposed in August 2006. This resulted in a massive effort to prevent MX with a citizen group forming and posting a websites called "No Motocross in King William County, Va". The excellent website has links to NO MX sites across the nation, including one to the

opponents of Granite Falls. A professionally produced video outlines the deep history, the ecology, and the agricultural roots of the area that go back hundreds of years – and then projects the horrific effects of the raceway would impose on the quality of life on the current rural residents. From the website (quote):

Outlined below is a brief summary of the proposed raceway. This will be updated when/if revised plans are submitted.

- The raceway will be comprised of 4-tracks, parking for over 550 vehicles, camping facilities for overnight visitors, concessions, and walking paths.
- Proposed racing times are from 7 a.m. to sunset seven days a week. Other sources of sound (announcement system, etc.) will be allowed until 11 p.m.
- Motocross vehicles up to 500 cc will be permitted.
- Construction will occur in five phases. The complex would begin with Phase 1, with no set dates or time frame for the development of the remaining phases.
- Proposed on-site emergency resources during racing events:
 - An ambulance with two EMT's.
 - Two security guards.
- Alcohol will not be sold in the raceway complex, but visitors may bring their own alcoholic beverages.
 - The on-site pavilion will have an alcohol use permit allowing those with a license to sell alcohol within the raceway.

(1/16/08)

CBS Channel 6 – WTVR

Too much traffic, too much noise and a negative impact on the environment. That's exactly what neighbors in King William County say will happen if the county approves a new motocross sports complex. KW Morrison, A LLC, applied for a special permit to build a five track motorcross raceway off Route 30 in Aylett. The company wants to develop a large, five track motocross raceway, including parking for more than 500 vehicles. The 300 plus acres are located off Route 30 about 4 miles north of Route 360. But neighbors say putting it in the middle of a residential area is just unacceptable. Hundreds of opponents signed a petition against the track. Now they want the county take their concerns to heart. Dr. Judith Gwathmey owns 200 acres right next to the proposed site. She says, "This motocross is not conducive with the county's plan. **A compromise is out of the question. No modifications to the plan will be acceptable to the citizens and yes, if necessary we will engage legal counsel to defend our rights.**" Perrin Gower, a local geologist says he has huge concerns about the negative impact to the environment. "Possible soil and ground water contamination is a potential problem. The water that runs through that acreage is pristine. The river association has tested the creeks for coliform and there is none. You can drink that water." Neighbor, Jeanette Wagner says that's why they formed a non-profit group called "Citizens for King William County." She wants other concerned neighbors to join them for Thursday's community meeting. Wagner says, "The meeting is good because we'll see some people becoming more involved because they're more aware." But CBS 6 did talk to one person who hopes neighbors will give the project a chance. Larry Jenks, of Jinx ATV & Cycle says, "It'll give the kids in the community something to do. Right now you have to drive two hours to get somewhere to ride. This will keep kids off the streets."

The next community meeting will be held Thursday, January 17th, at the Upper King William Senior Center at 7 pm. In the next few months, the developer will meet with neighbors again to address their concerns.

Newspaper

A community's fight to preserve its historical and rural culture in Virginia: Biotechnology CEO get involved (3/7/08)

BUSINESS WIRE

BOSTON – Judith K. Gwathmey VMD, Ph.D., FACC, FAHA has served as Chief Executive and Chief Scientific Officer of Gwathmey Inc. for twelve years. Gwathmey, Inc. is an internationally recognized leader in providing pre-clinical testing services for evaluation of lead compounds prior to their conversion into marketable products.

Dr. Gwathmey recently embarked on a campaign with other members of the quiet rural community in Aylett, Virginia to preserve the town's rural character and natural resources (wetlands, wildlife, and water).

"KW Morrison LLC wants to place a motocross raceway in the middle of an agricultural and residential area. Many working folks and retired seniors who live in King William County are deeply disturbed about the environmental and community degradation the motorcycle raceway will cause. **The relentless noise, the added air, water and soil pollution, and increased traffic of outsiders makes many residents very concerned about their community and their property values,"** says Gwathmey.

Dr. Gwathmey is working with others to raise awareness about the adverse effects the motocross raceway will cause. Dr. Gwathmey, who is on faculty at Harvard University and Boston University Medical School, is a celebrated cardiac scientist. Along with her numerous publications, she received the 2001 Presidential Mentoring Award and was recognized recently as a Hero for 2008 in Boston for providing coats and uniforms to needy students in elementary schools.

Motocross developers may want to put plans into reverse (2/6/08)

By ROBIN LAWSON

TIDEWATER REVIEW EDITOR

Developers of a proposed motocross track in King William couldn't have expected the magnitude of opposition their plans have met so far. We certainly didn't. The proposal hasn't even made its way to the Planning Commission and already staunch opponents have formed a group called the "Citizens for the Future of King William County," along with banners, signs, and a website dedicated to bringing the project to a screeching halt.

KW Morrison LLC revealed its plans for Governor's Run Sports Park, a motocross facility located on 327 acres off rural Route 30 last month. The property, which is located approximately four miles west of Central Garage, is zoned agricultural as required by the county's zoning ordinance, which was amended in late 2006 to include a motocross facility as an allowable land use. The surrounding property is designated for medium to high residential development on the county's Future Land Use Map. Residents, however, are voicing loud concerns over noise, environmental pollution, impacts on emergency services, and affects on the surrounding homeowners.

In response to the opposition, the developers have gone back to drawing board and deferred a Planning Commission public hearing. It's a long way from ever reaching final approval from the Board of Supervisors.

Last month we suggested residents weigh both sides since there are potential economic benefits to the project as well. Since then, however, the opposition has only grown and will most likely continue to do so. In response, KW Morrison LLC would serve themselves better by halting plans in King William and moving forward in a more receptive area.

Even if the proposal meets all the planning department's requirements, the Board of Supervisor's can still deny the project based on quality of life issues that have repeatedly been raised by opponents.

The road ahead in King William isn't looking very smooth for the motocross developers. They should just stop while they're ahead.

Supes still treading through motocross concerns (1/30/08)

By FRANCES HUBBARD

TIDEWATER REVIEW STAFF WRITER

KING WILLIAM -- It was standing room only Monday night as the Board of Supervisors faced a determined crowd who made it very clear they do not want a motocross facility in their county. Standing ovations, cheers, and waving signs from nearly 200 audience members who packed inside and outside the boardroom followed each speaker during the board's regular public comment period. "The community overwhelmingly rejects this project," said Terry Stone, an Aylett resident and member of the King William County School Board. "It's not wanted." Although the application submitted by KW Morrison LLC to construct a sports park in Aylett was not on the board's agenda, members of the newly-formed non-profit group, the "Citizens of King William County," told the board they would be holding their ground over the next few months as the application process continued. Several speakers said they were confident the project would not be approved. "Nothing good can come out of it," said Shirley Jones, a new Aylett resident who said she was attracted to the area by its rural quality, one she hopes will be preserved. Earlier this month, developers revealed their plans for Governor's Run Sports Park, a motocross facility located on 327 acres off Route 30 near Globe Road, to an onslaught of opposition. Following a January 2 community meeting, developers have gone back to the drawing boards, deferring the January 22 Planning Commission public hearing and revamping park plans to address concerns. While not all citizens are opposed to the track, those speaking out are voicing concerns over noise, environmental pollution, impact on emergency services, and effects on the surrounding real estate market. David Chenault, a farmer whose property is adjacent to the proposed park, told the board the facility would ruin the area. "The only way this should be approved is if you allow a brothel," he said to a roar of laughter, asking that the brothel border his own land. Developers' original plans include four competition motocross tracks, a pavilion, a snack bar, restrooms, and a camping area. The tracks, which will be located approximately four miles north of Central Garage, would be accessed off of Route 30. The developers, which include Bob Fauteaux, Arthur Mourino, and Marshall Campbell, initially proposed to host one weekend event per month. A typical motocross event draws between 300 and 400 spectators with riders generally ranging between the ages of eight and 16 years-old. No new public hearing date has been set for the Conditional Use Permit before the Planning Commission. Randy Cook, attorney for the developers, said they will revise the initial plans to address some of the concerns. There is still the possibility of another community meeting, but no plans have been made at this time.

The next Board of Supervisors meeting is February 25 at 7 p.m. in the boardroom of the Administration Building.

From: J. Lane [mailto:redcloudjl@aol.com]
Sent: Thursday, October 08, 2015 11:00 AM
To: julpies@gmail.com
Subject: Phelps Farm, Motorcross, Special use permit application J. Lane

received
10/8/15 JAC

Dear Julie,

Regarding my prior conditional 'pro' petition vote given on the date of your neighborhood presentation, I regret to say after further research on the topic, I must withdraw that pro vote as it applies to the motorcross aspect of your development plan and lodge my vote in opposition.

I did not realize the extent and duration aspects of your plan until the presentation was through and I undertook further research on similar projects across the country. Especially concerning is the amount of additional customer volume anticipated to render the project financially viable, thus increasing greatly the noise issue from what we have come to expect in the past from your informal operations.

I conclude that on further study of your and our topography that no realistic means of suppressing the noise effects to the 25-35 decibel level is feasible. Next, on researching the health effects to neighbors, the evidence is abundantly clear there are negative health effects. Next, on the issue of property values, there is good evidence this does affect surrounding property values negatively.

Having no quantifiable research regarding expected noise for the project at the presentation was a concern to me personally. The business plan presented was not supported on the motorcross aspect with any comparable measurements, so the complaints of nearby neighbors was therefore of greater weight in considering the actual effects on their home enjoyment and property values, especially since the project would have to ramp up in total ridership volume through the year. There are material effects on property values.

<http://dqydj.net/how-much-does-noise-affect-real-estate-prices/>

As there is a trend toward recognizing noise as a negative factor to property and health this provides further support that an injunction in our Ag. setting with neighbors nearby would likely prevail. http://www.nonoise.org/lawlib/cities/va/fairfax_va.htm It appears that as your nearest neighbors would be affected by more than the normal residential levels permitted under similar Virginia ordinance provisions if measured, this would trend against your project's continued operation even if approved initially by the planning commission. <http://alexandriava.gov/tes/oeq/info/default.aspx?id=4034#1155>

The distinction you mentioned that this would not be a racing facility, that is, whether someone is 'racing' or just 'training' I do not see as material. Training is for all intents and purposes a refinement process pushing the limits and having some experience in motorcross from my younger days, there is no material difference between the two, since the driver is essentially competing with him or herself in any case during training.

The remaining aspects of your development plan look fine to me, and a religious retreat is a viable approach. Many farms are now offering their lands for weddings and ceremonies of all sorts. Even with a band playing from time to time, this would be far preferable to a fully commercialized motorcross facility.

I understand and fully sympathize with your need to make the land pay, I just think the motorcross approach is far too burdensome to affected neighbors to be justified under a special use permit exception to general zoning currently in place. There is sure to be litigation once the noise nuisance issues come to a head. Best to avoid that now, rather than later. Injunction law appears to favor the plaintiff suing on a general level. http://www.troutmansanders.com/files/Uploads/Documents/www.vba.org_oct04.pdf.pdf

Sincerely,
John

John E. Lane III
199 Buck Drive
Hardy, VA. 24101
Same Tel. Voice 540-772-3374 call for fax
Cell 540-520-8940

Residents decry motocross raceway in King William (1/29/08)

By LAWRENCE LATANE III
TIMES-DISPATCH STAFF WRITER

KING WILLIAM – Opponents of a motocross raceway under consideration in King William County packed a Board of Supervisors meeting last night. Almost 200 opponents applauded speaker after speaker who told the board that the track would be a bad idea. "I think the board understands the feeling of everybody out there that you do not want a motocross track," said board Chairman C. Thomas Redd III. Speakers said a track would compromise the county's rural quality of life and undermine the value of surrounding real estate. "This is a shame we have to deal with such a thing," county resident Leon Brooks said. "How do we want future residents to view King William?" resident Bob Hubbard asked. Developers withdrew their original proposal to build up to four motocross tracks and a campground on 327 acres north of Central Garage. Bob Fauteux, one of the developers, cited opposition at an information meeting hosted this month by the developers. Fauteux said he and his partners are revising the proposal to make it more palatable to local residents. They have yet to resubmit a plan.

Mapping Out Concerns (1/23/08)

By FRANCES HUBBARD
TIDEWATER REVIEW STAFF WRITER

Close to 200 citizens turned out on a wet and slushy Thursday night for the first community meeting hosted by the newly formed Citizens of King William County. The meeting, held at the Upper King William Senior Center off Route 30, allowed residents the opportunity to pose questions to a panel, which included a geologist, about the recent proposal submitted to the county by KW Morrison LLC to construct a motocross facility on 327 acres four miles above Central Garage. Citizens reviewed maps that showed the property in proximity to the county's subdivisions (pictured above) and voiced concerns over noise, pollution, and effects on the surrounding homes. A public hearing at the Planning Commission last night was deferred as the applicant revamps plans to address some of the concerns.

Foes of racetrack proposal to meet **Opposition to motocross park in King William 'unifying' some residents (1/16/08)**

By LAWRENCE LATANE III
TIMES-DISPATCH STAFF WRITER

Opponents of a proposed motorcycle racetrack in King William County plan to meet tomorrow night to organize their resistance to the idea. Developers broached plans for a motocross park at a public information meeting of their own last week that left many worried it would spoil their peace and quiet and conflict with county growth trends. "I don't see this as a bonfire thing to help business in King William," said George McFadden, who built a home 11 years ago on Enfield Road about a mile and a half from the proposed track. "I'd like to hear all sides to this," he added, "but right now, I'm opposed to this." McFadden said he plans to attend the meeting. It will be in the Upper King William Senior Center on 8306 King William Road at 7 p.m. The meeting is being organized by members of Aubrey El's family who live, own land, or grew up near the proposed raceway site about 5 miles west of Central Garage off state Route 30. "It's definitely become an issue that's unifying this county. We thought it would be a good idea to get people together who stand in opposition to it," El said. Bob Fauteux, who runs a

logging business in the county, and two partners had planned to present their motocross track proposal to the county Planning Commission next week. They postponed the proposal after their information meeting last week made it clear their idea would face stout opposition. An unexpected crowd of about 100 people attended their meeting. Fauteux said he and his partners need time to revise their plan to address complaints raised at the meeting. Many of the speakers that night voiced concerns about noise, traffic safety, light pollution, alcohol use and environmental impacts.

Faustian said the proposed Governor's Run Sports Park would bring jobs and money to the county by attracting 8 to 16-year-old motocross racers and their families to monthly American Motorcycle Association-sanctioned competitions at the park.

The plan originally called for the phased creation of up to four dirt racetracks on 327 acres and a campground. County planning director Scott Lunches said the developers have indicated the developers may drop one of the tracks to allow room for forest buffers wider than the 100 feet they originally proposed. Fauteux said yesterday he welcomes tomorrow night's meeting. "We look forward to and encourage the continued interest in the project," he said. "We think that's a good thing."

Motocross proposal fuels opposition Concerned citizens group forms, hires legal counsel **(1/16/08)**

By FRANCES HUBBARD
TIDEWATER REVIEW STAFF WRITER

KING WILLIAM – Over 200 residents are expected to attend a community meeting Thursday night to discuss impacts they believe a possible motocross track will have on their county. The meeting is expected to be the first informational session of a newly organized group called the Citizens for the Future of King William County. "It's a meeting to get people involved," Resident Jeanette Wagner said, extending an invitation to any citizen who has an interest in where the county is going. Earlier this month, KW Morrison LLC revealed its plans for Governor's Run Sports Park, a motocross facility located on 327 acres off Route 30 near Globe Road, to an onslaught of opposition. Following the January 2 community meeting, developers have gone back to the drawing boards, deferring the January 22 Planning Commission public hearing and revamping park plans to address concerns. While not all citizens are opposed to the track, most residents speaking out are voicing concerns over noise, environmental pollution, impact on emergency services, and affects on the surrounding homeowners. Organizers of Thursday's meeting plan to present experts who will discuss the impacts they believe the sports park could have on the community, while gathering an ongoing list of concerns and questions. "If we compile the list together it will ensure that we are complete," said Terry Sims Stone, an Aylett resident who also serves on the King William County School Board. "It's not just an entertainment event for us. We see it as a loss of our assets. I just don't think it's in the right location." Several presentations are expected at this week's meeting. Organizer Dr. Judith Gwathmey, who lives adjacent the proposed park, will present what she calls a community vision. "I will be asking what would we do with the property if we had it?," she said. "If you don't want a motocross track then find an alternative and suggest it," Wagner added. Gwathmey said a geologist will speak on the environmental impacts, a transportation representative will speak on traffic impacts, fire and rescue personnel will discuss the impact on emergency services, and a representative from the fisheries and wildlife department will also speak. In addition to community impacts, Gwathmey has also invited an Emergency Room/Trauma physician to talk to the citizens about the health impacts and the injuries associated with motocross racing. "I'd rather these guys present the facts and then allow people to ask the questions," Gwathmey said. This week, Gwathmey said the legal counsel of

George W. Guy in Richmond, along with Kevin W. Mottley of Troutman and Sanders LLC, has been retained to represent the citizens group and plans are in the works to turn the Citizens for the Future of King William County into an official 501(c)3 corporation – a non-profit organization. Gwathmey explained that the organization will remain a permanent entity in the county to assist residents with future issues and provide financial support if ever needed. The community meeting is set for January 17 at 7 p.m. at the Upper King William Senior Center located on Route 30.

King William previews park Residents express skepticism about motorcycle racing (1/11/08)

By LAWRENCE LATANE III

TIMES-DISPATCH STAFF WRITER

CENTRAL GARAGE – Developers presented plans for a motorcycle racing park to a skeptical audience in King William County last night. A spokesman for the proposed Governor's Run Sports Park said he wanted to give residents a preview of the plan before presenting it to the county planning commission Jan. 22. "We want to please as many people as we can," said Randy Cook, a Mechanicsville lawyer who outlined the proposal last night at an informal meeting that drew about 100 people to a county senior center. Many in the audience, however, just wanted to know how much noise the sports park's race track might generate. "I moved to this county for tranquility and quiet," said one woman who did not identify herself. Many in the audience applauded. Bob Fauteaux, one of three partners who want to develop the 327-acre property, compared the noise of a motocross racing bike to a lawnmower. He said that at 25 feet, a motorcycle generates 90 to 100 decibels of sound, compared with a mower that produced 107 decibels from 3 feet away. Another speaker from the audience told Fauteaux that she wanted a more valid comparison. "What about 50 of these running around the track?" she asked. Fauteaux responded that he has been involved in motocross racing for 30 years, has never worn earplugs and still hears fine. The park would be built 5 miles west of Central Garage off state Route 30. The developers' plans call for creating a racing park for off-road motorcycles powered with 50-to 500-cc engines. Cook said up to four tracks would be built if all five phases of the developers' building plan are completed. But he said only one phase might be built, consisting of a beginner's track and an advanced race course. Typically, motocross parks draw drivers who range in age from 8 to 16, Cook said. The other two developers are Arthur Mourino and Marshall Campbell. The proposal calls for holding one organized Friday-Sunday event each month. Cook estimated about 150 vehicles would enter the park for the monthly event, which would be sanctioned by the American Motorcycle Association. The facility also would be opened daily for private instruction and public practice. Motorcycles would be allowed to use the track between 7 a.m. and sunset, and overnight camping would be allowed on the grounds. The developers called last night's meeting to provide information to nearby residents. The county planning commission will hold a public hearing on the request Jan. 22 at 7 p.m. Commissioners then will make a recommendation to the county board of supervisors, which will conduct another public hearing on the proposal.

Motocross track revs up concerns (1/9/08)

By FRANCES HUBBARD

TIDEWATER REVIEW STAFF WRITER

KING WILLIAM – Dr. Judith Gwathmey does not want a motocross track in her backyard, and she's not alone. "It's like someone putting a major airport next to your house. Nobody would want to live there," Gwathmey said. Gwathmey is just one in a group of King William residents banning together in opposition of the development of a motocross track on 327 acres located off Route 30 near Route 608, Globe Road. "If we want a community known

"It's insulting the way this thing was presented to us. It's an environmental nightmare. I can't think of anything it doesn't impact," said Gwathmey, who has a doctorate in several backgrounds and works for a biotechnology company in Boston but spends most of her time on the property that has been in her family for generations in King William. "This is about a community. It doesn't send the right image for this county. My family has been here for over 100 years. I live on this road and I'm not going back to work until this is over."

Motocross racetrack proposal delayed Developers working with King William residents to ease noise concerns (1/3/08)

By LAWRENCE LATANE III
TIMES-DISPATCH STAFF WRITER

Developers of a proposed motorcycle racetrack in King William County have deferred their application for a conditional-use permit while they re-examine the project in light of neighborhood resistance. "We've tabled it until we can address every one of their problems," Bob Fauteux said of concerns raised last week at a community meeting. Fauteux, a logging contractor who cuts timber in the county, and two partners revealed their plans for Governor's Run Sports Park to a skeptical audience last week. About 100 people attended the meeting and made it clear they will guard their rural lifestyle. Speakers identified noise, traffic and light pollution among the many issues they said would be incompatible with the neighborhood of scattered homes and farms about 5 miles west of Central Garage off state Route 30. The raceway proposal was scheduled to be heard at a Jan. 22 public hearing before the county Planning Commission. Planning Director Scott Lucchesi said no new date to hear the request has been set. He has recommended the developers host another informational meeting with residents before bringing a retooled request to the planners. "It's just better to get citizens involved," he said. As presented at last week's informal meeting, the sports-park plan included the phased creation of up to four motocross racetracks on 327 acres south of state Route 30. The venue would host monthly American Motorcycle Association-sanctioned races between motocross racers on winding dirt tracks. The proposal said mufflers would be required on all motorcycles, and tracks would be surrounded by forest buffers at least 100 feet wide. "I honestly do believe in this project," said Fauteux, who declined to offer specifics on how he and his partners intend to modify their proposal. "When you see our next proposal, you'll see that a lot of the [neighborhood's] issues will be addressed. Lucchesi said the developers left the impression with him that they would rework their layout, possibly dropping one of the proposed tracks to increase the amount of forest space surrounding the park. "They're planning a substantial overhaul from what I understand," Lucchesi said.

Board Denies Motocross Appeal Nov. 12, 2008

By FRANCES HUBBARD

Staff Writer

KING WILLIAM – An emotional Dr. Judy Gwathmey thanked all of those who supported her following the Board of Zoning Appeals decision last week that ,says she has to sign off on the permit

, for the proposed motocross facility in Aylett. Developers, however, say the decision will not halt their plans.

14. I am opposed to the track, but sadly, this issue has now been reduced to good and bad, right and wrong, pitting neighbor against neighbor. The concept seems so simple to me — if we have to get our neighbors' approval before building a fence or constructing a shed in our yards to ensure it is not a nuisance, why would a project of this magnitude have any less restrictions? (end quote)

NO Motocross in King William County Va website:

<http://www.nokwmotocross.org/additionaalinfo.cfm>

SUMMARY:

I think the last sentence from the above King William County blog best sums up our local struggles to reject a conditional use permit for motocross/camping on S. Wilhoit Rd:

“...sadly, this issue has now been reduced to good and bad, right and wrong, pitting neighbor against neighbor. The concept seems so simple to me — if we have to get our neighbors' approval before building a fence or constructing a shed in our yards to ensure it is not a nuisance, why would a project of this magnitude have any less restrictions?”

It should be very clear from the above motocross siting tour that communities everywhere stand up to fight tooth and nail to protect themselves from the nuisance that motocross represents to residents: noise, dust, traffic, prolonged legal battles, environmental damage, trespass and the threats and harassment of residents who oppose motocross are common themes in every struggle.

It is obvious from the very fact that a community member had to spend hours compiling these sad stories that the already illegally sited and used Thomas motocross event site south of Molalla has had grave impacts on our community's ability to enjoy the quality of life we enjoyed before motocross invaded our peaceful hills.

One more quote from the struggle in Virginia fits our struggle in Molalla:

“A compromise is out of the question. No modifications to the plan will be acceptable to the citizens and yes, if necessary, we will engage ... to defend our rights.”

The motocross proponents we have met in Molalla have no compassion for our quality of life. All the above MX stories prove that problems are never ending when motocross is sited anywhere near residences — and that MX has huge impacts on natural resources and on county planning departments. Please deny the Thomas conditional use permit and restore our lives so we can again enjoy our traditional farming and forestry pursuits.

RE:ZO348-10-C (Thomas conditional use)


FIVE ARTICLES FROM THE COLUMBIAN ABOUT WASHOUGAL MX PROBLEMS:

Riots, rowdy behavior, drinking, police and Clark County concerns about MX. These articles document on

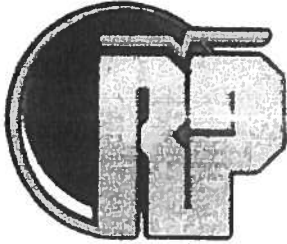
ARTICLE 1: BRAWL AT MOTOCROSS RACE DRAWS RIOT POLICE Byline: DEAN BAKER, Columbian staff writer

Publication Date: 08/02/1998 12:00:00 AM

Publication: The Columbian

[Home](#) > [Virginia](#) > [Phelps Farm Offroad](#) > [Print](#) Use your browser to print this page.

Phelps Farm Offroad



RiderPlanet USA

Last Updated: 9/25/2015

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Android App Store](#)**RiderPlanet USA**

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Motorcycle & ATV
Trails!**RiderPlanet USA**

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The Ultimate Database
Of Motorcycle & ATV
Trails

DESCRIPTION

**Last Known
Status** **Open**

This property offers 185 acres of tight and twisty single track trails, technical hill climbs and a makeshift motocross track. The trails are open daily year-round and primitive camping is permitted for a small fee.

The property also offers a cabin that can accommodate six people and horse boarding. For rates and availability call **(540) 890-8738**.

RiderPlanet USA

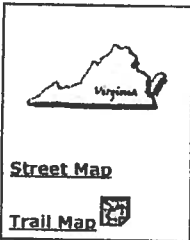
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Database Of
Motorcycle & ATV
Trails!**RiderPlanet USA**

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The Ultimate Database
Of Motorcycle & ATV
Trails

LOCATION

Nearest City **Hardy, VA****Address** 5076 Edwardsville Road, Hardy, VA 24101

From: Roanoke, VA

- 1) Take VA-116 south about 8 miles
- 2) Turn left (south-east) onto VA-678, continue about 5 miles
- 3) Turn left (west) onto VA-680, continue about 1 miles
- 4) Entrance is on the right (east).

[Street Map](#)[Trail Map](#) **RiderPlanet USA**

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Trails

AREA TYPE

Area **Trail, Track****Land** Privately Owned / Commercial**RiderPlanet USA**

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QUALITY

Rating



Good

Recommended Stay Full Day

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REGULATIONS

Permit Required	No
Dates Open	Daily 10am-5pm
Spark Arrestor	Recommended <i>A spark arresting <u>silencer</u> or <u>end cap</u> is recommended.</i>
Noise Limit	
Whip Flags	Not Required
Maximum Vehicle Width	
Motorcycles	Permitted
ATVs	Prohibited
UTVs / SXS	Prohibited
SUVs / Jeeps (registered)	Prohibited
Dune Buggy/Sand Rail 4x4 (unregistered)	Prohibited
Two Strokes / 2 Cycle Engines	No Restriction
Helmets Required	Yes
Bicycles	
Hiking	No Restriction
Horseback	No Restriction
Camping	Some Areas <i>(camp in developed sites only)</i>
Campfires	
Night Riding	No
Alcohol	Prohibited
Emergency / Law Enforcement	

Insurance

*Disclaimer: RiderPlanet strongly recommends that all riders obtain medical insurance and buy motorcycle insurance or ATV insurance before visiting any of the locations depicted on this website.

FEES

Parking (\$0.00)

Entry	No (\$0.00)
Riding	Yes (\$15.00 per rider)
Camping	Yes Tent: \$15.00 RV: \$15.00 Addtl. Vehicle: \$0.00

KEY SERVICES

 First Aid	5-20 Miles (NW)	<i>Carilion Roanoke Memorial Hospital (540) 981-7000</i>
 Gasoline	1-5 Miles (W)	<i>Excel Food Mart (540) 721-2932</i>
 Diesel	1-5 Miles (W)	<i>Excel Food Mart (540) 721-2932</i>
 Water	On Site	
 RV Hookup	5-20 Miles (E)	<i>Halesford Harbour (540) 297-9000</i>
 RV Disposal	5-20 Miles (E)	<i>Halesford Harbour (540) 297-9000</i>
 Campground	5-20 Miles (NW)	<i>Roanoke Mountain Campground (540) 745-9681</i>
 Conv Store	1-5 Miles (W)	<i>Excel Food Mart (540) 721-2932</i>
 Swim Area	Hardy, VA	
 Water Body	On Site	
 Boat Ramp	5-20 Miles (E)	<i>Indian Point Marina (540) 874-5249 or (540) 719-2427</i>

Contact Info Phelps Farm Offroad
5076 Edwardsville Road
Hardy, VA 24101
(540) 890-8738
www.facebook.com

RP You put 1,000 trails in your pocket... FREE?

MOTO2GO

for Android™

1122 Places To Ride
5521 Photographs
10,850 GPS Points

Cinder Hills OHV Area
Main Entrance Below The main exit

Status: Open
Type: Concho (National Forest)
Area: 10,000 sq ft
Difficulty: ★ ★ ★ ★ ★
Rating: ★ ★ ★ ★ ★

This area offers some large hill climbs and about 19 miles of single track through deep volcanic craters and ponderosa pines. The craters from ancient volcanoes feel like loose sand, but these tiny lava pebbles tend to tear up your tires. It's a good idea to have a spare tire.

Trail Announcements
MX Practice Schedules
Races and Events
Helmet Cam Videos

Content Updated Daily

No Sign-ups.
No Membership.
No Accounts.
No Ads.
No Tracking.
No Cost.

Download it today.

Contact Info:
Cinder Hills National Forest, 10,000 sq ft
10,000 sq ft
10,000 sq ft

Details **Video** **Map** **Drive**

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CHILDREN UNDER THE AGE OF 18 MUST BE ACCOMPANIED BY AN ADULT !!
NO EXCEPTIONS !!



Mark Maelstrom Atwood
September 5 at 6:47am

Julie says they got some rain. You guys need to check this place out!

Like · Comment · Share

Renee Clark, Jeff Sealer, Wesley Deacon and 10 others like this.

Most Recent



Ashleigh Jordan-Dickerson Is it open on Sunday
May 17 at 9:33am



Ashleigh Jordan-Dickerson
July 19 at 8:38am

Is it open today

Like · Comment · Share



Phelps Farm Offroad Dirtbike Practice Track and Trails added 6 new photos.
March 21, 2014

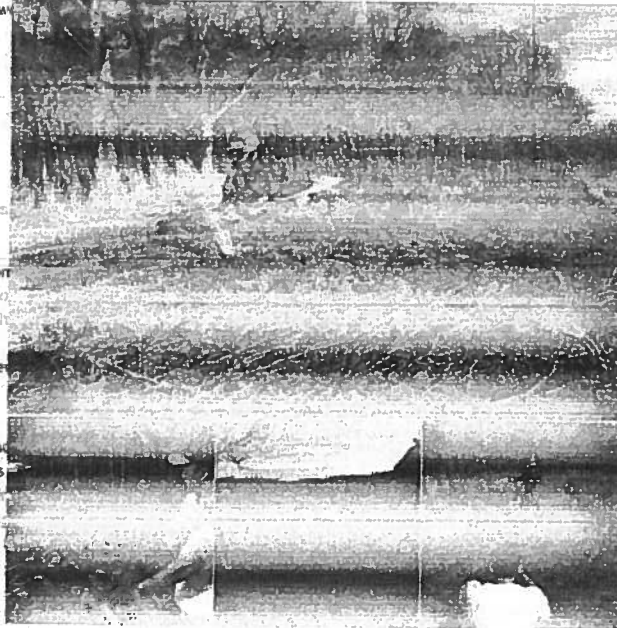


Ryan Sartell
July 15 at 6:47pm

Will y'all be open to the public this w
what is the entry fee? Thanks!

Like · Comment · Share

Trainer John Lee working with proud father Joe Conner and his son "B-Rad" Brent Hamm! Awesome Friday evening working starts and breaking.
Good luck at Birch Creek "B-RAD" !!!



REVIEWS

4.8 4.8 of 5 stars · 35 reviews



Jason Greer — Awesom
the best word I could think of to
Farm. The diverse trails and the
See More
September 22, 2015 · 1 Review
2



Giovanni Du-ay — I had
days today because of Phelps
is very nice and accommodates
fun because the place is so
riding. I definitely recommend.
February 3, 2015 · 4 Reviews
1 1

Tell people what you think

Like · Comment

Matt Perez, Eric Jones and 12 others like this.

PEOPLE ALSO LIKE



Joe Phelps Brent Hamm
March 22, 2014 at 6:28am



Snow Creek Motocross
Sports & Recreation



Phelps Farm Offroad Dirtbike Practice Track and Trails
February 18, 2014



Grand National Cross Country Series
Sports League

Like · Comment



Rivers Edge Outdoors
Sports & Recreation

Shannon Meador, Dustin Russell and Mack Raws like this.

View 4 more comments

See more Sports & Recreation in Raleigh, Virginia



Michael Brent Kennedy II Can't wait to come out there. Would like to try to start training there as many Fridays as I can during race season
February 18, 2014 at 7:00pm · 2



Dustin Russell Will be riding that today
March 1, 2014 at 9:38am · 1

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Phelps Farm Offroad Dirtbike Practice Track and Trails
October 31, 2013

My sweet horses just don't quite understand why I'm riding a dirt bike!



Mark Maelstrom Atwood
September 5 at 6:47am

Julie says they got some rain. You guy, this place out!

Like · Comment · Share



Ashtleigh Jordan-Dickerson
July 19 at 8:38am

Is it open today

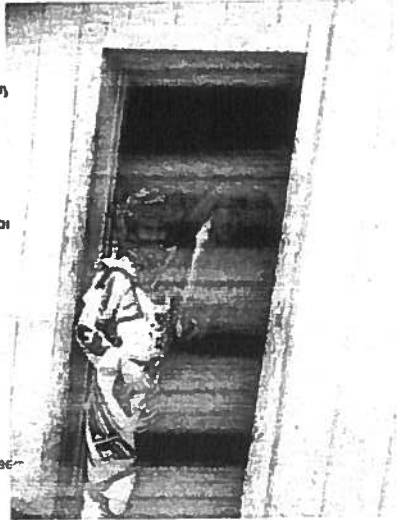
Like · Comment · Share



Ryan Sartell
July 15 at 6:47pm

Will y'all be open to the public this week what is the entry fee? Thanks!

Like · Comment · Share



Like · Comment · Share

REVIEWS

4.8 4.8 of 5 stars · 36 reviews

Mark Maelstrom Atwood, Theresa Campbell, Rick Mays and 8 others like this.



Phelps Farm Offroad Dirtbike Practice Track and Trails
October 31, 2013

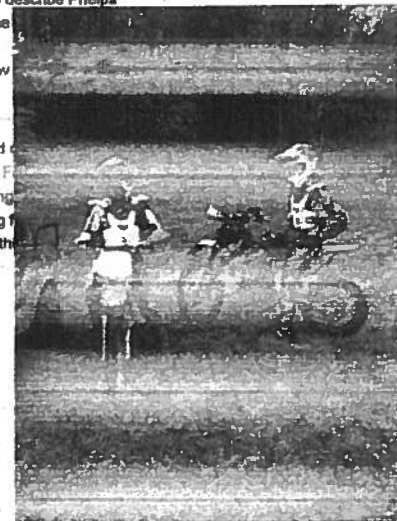


Jason Greer — the first word I could think of to describe Phelps Farm. The diverse trails and the See More
September 22, 2015 · 1 Review · 2

Awesome! Julie and Ben Phelps working on turns



Giovanni Du-ay — I had 2 days today because of Phelps Farm. Is very nice and accommodating fun because the place is so big riding. I definitely recommend the February 3, 2015 · 4 Reviews · 1 1



Tell people what you think

PEOPLE ALSO LIKE



Snow Creek Motorsports
Sports & Recreation

Like · Comment · Share



Grand National Cross Country Series
Sports League

Brandie Walden and Chad Fry like this.



Rivers Edge Outdoors
Sports & Recreation



Michael Pound Gonna make it to the line 2014??
October 31, 2013 at 6:50pm · 1



Phelps Farm Offroad Dirtbike Practice Track and Trails If it is God's will for me, then the answer is yes! But I am not a good rider. Some days I go out and nothing intimidates me and then other days I go out and the most simple terrains scares me! My boys tell me that is normal! So, at this point, my goal is work hard at it and stay focused. At my age I might just have to be a trail rider! See you at Pipsico!
October 31, 2013 at 7:10pm · 2

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Phelps Farm Offroad Dirtbike Practice Track and Trails
October 15, 2013



Mark Maelstrom Atwood
September 5 at 6:47am

Julio says they got some rain. You guys need to check this place out!

Check out a few new videos of Phelps Farm. You can get a good look at our trail, open fields and a couple of hill climbs.
Go to our FB page and click onto "posts by others"
Big thank you to Jordan Keith, Chris Saunders and the whole Star City Dirt Gang!

Like Comment

Like · Comment · Share

Dustin Russell, Robert Seth Marshall and 2 others like this.



Ashleigh Jordan-Dickerson
July 19 at 8:38am

Is it open today

Like · Comment · Share



Phelps Farm Offroad Dirtbike Practice Track and Trails
October 14, 2013

The boys watching Main @ Rattlesnake! Joe is wearing my very first pair of hunting pants! Who remembers the ORIGINAL TREBARK BY JIM CRUMLEY? That'll show your age!



Ryan Sartell
July 15 at 6:47pm

Will y'all be open to the public this week what is the entry fee? Thanks!



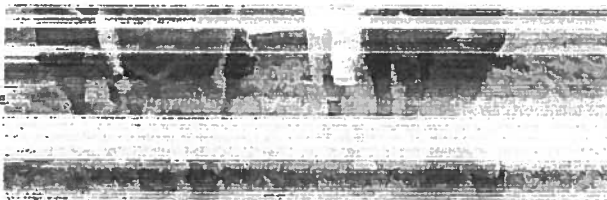
1.8 of 5 stars · 36 reviews



Kevin Greer — Awesome

See More

September 22, 2014 · 1 Review



Giovanni Du-ay — I had one of the best days today because of Phelps Farm! Kristie Cundiff and 2 others like this.

I very much enjoyed the day and the people who were there. I was very much enjoyed the day and the people who were there. I was very much enjoyed the day and the people who were there.

February 3, 2015 · 4 Reviews



Phelps Farm Offroad Dirtbike Practice Track and Trails
I was hunting once with Jim Crumley, he pulled back on a huge buck, it took off running, he aimed ahead of it and got it! Dropped it! Good memories!

Tell people what you think



Josh Montana I have a pair I'm definitely wearing em at the next race!! lol
July 4, 2014 at 12:11am · 1

PEOPLE ALSO LIKE



Sports & Recreation



Sports League



Sports & Recreation



Phelps Farm Offroad Dirtbike Practice Track and Trails
October 9, 2013

wreck and having a jersey full of yellow jackets! Way to handle it and Ron! I'm always so proud of you!

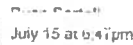


Justin Hibbs, Brandon Woods, Jeff Symanski and 2 others like this.

1 share



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WITNESS MY HAND AND SEAL OF OFFICE, this 10th day of May, 1994.



Figure 1. Schematic representation of the experimental design. The subjects were divided into two groups: the control group and the experimental group. The control group received a standard training program, while the experimental group received a training program with a focus on the specific skills required for the task. The results of the training program were compared between the two groups.

Rowe Mitchell, Brandon Woods, Carrie G Cochran and 5 others like this
[View 142 photos](#)

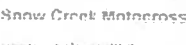
100-443887-100
 JUL 22 2013
 JUL 22 2013

July 22, 2013

July 22, 2013

A big thank you to Sarah Baldwin for visiting our farm and riding with me!
With Dan Phelps and Steward Baylon

1. The first part of the paper is devoted to the study of the asymptotic behavior of the solutions of the system (1) as $t \rightarrow \infty$. It is shown that the solutions of the system (1) tend to zero as $t \rightarrow \infty$ if and only if the matrix A is Hurwitz. The second part of the paper is devoted to the study of the asymptotic behavior of the solutions of the system (1) as $t \rightarrow \infty$ if the matrix A is not Hurwitz. It is shown that the solutions of the system (1) tend to infinity as $t \rightarrow \infty$ if and only if the matrix A is not Hurwitz. The third part of the paper is devoted to the study of the asymptotic behavior of the solutions of the system (1) as $t \rightarrow \infty$ if the matrix A is not Hurwitz. It is shown that the solutions of the system (1) tend to infinity as $t \rightarrow \infty$ if and only if the matrix A is not Hurwitz.



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1. The first part of the paper is devoted to the study of the asymptotic behavior of the solutions of the system (1) as $\epsilon \rightarrow 0$. It is shown that the solutions of the system (1) converge to the solutions of the system (2) in the sense of the weak convergence in the space $L^2(\Omega; \mathbb{R}^n)$. The second part of the paper is devoted to the study of the asymptotic behavior of the solutions of the system (1) as $\epsilon \rightarrow 0$. It is shown that the solutions of the system (1) converge to the solutions of the system (2) in the sense of the weak convergence in the space $L^2(\Omega; \mathbb{R}^n)$.

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2009

සමස්තයට අයත් ප්‍රතිශතය සඳහා සංගණකයේ අවමයයන් සඳහා සැලකිය යුතුම අගයන් 3.13 සහ 3.14 සඳහා සමාන වේ.

$$N(11, 0.01) = 1.172541 \times 10^6, \quad C_0 = 3.611494 \times 10^{-11}, \quad \sigma = 1.94 \times 10^{-11}.$$

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Mark Maelstrom Atwood
September 5 at 6:47am

Julie says they got some rain. You guys need to check this place out!

Like · Comment · Share



Holly Reynolds Thank you Julie!
July 23, 2013 at 7:53pm · 1



Phelps Farm Offroad Dirtbike Practice Track and Trails
July 22, 2013 · 1



Ashleigh Jordan-Dickerson
July 19 at 8:38am

Is it open today

Like · Comment · Share



Ryan Sartall
July 15 at 6:47pm

Will y'all be open to the public this week what is the entry fee? Thanks!

Like · Comment · Share

REVIEWS

4.8 4.8 of 5 stars · 36 reviews



Jason Greer —

Awesome-tastin! This

Like · Comment · Share

the first word I could think of to describe Phelps Farm. The diverse trails and the people here are amazing. Phelps Farm Offroad Dirtbike Practice Track and Trails and Dustin Russell like this.

See More · September 22, 2015 · 1 Review

2



Giovanni Du-ay —

I had one of the best

days today because of Phelps Farm. The owner is very nice and accommodating. I had a lot of fun because the place is so big for dirt bike riding. I definitely recommend this place. They all worked hard and endured the heat for 3 days. Thank you to all the families who camped here to support your riders. We are grateful to all of you who came out and we want you to come back! More photos are on the way! RIDE HARD, RIDE SMART!

February 3, 2015 · 4 Reviews

1 · 1

Tell people what you think

PEOPLE ALSO LIKE



Snow Creek Motocross Sports & Recreation



Grand National Cross Country Sports League



Rivers Edge Outdoors Sports & Recreation

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Like · Comment · Share

Rowe Mozetta, Phelps Farm Offroad Dirtbike Practice Track and Trails, Chris Saunders and 10 others like this.

Mark Maelstrom Atwood
September 5 at 6:47am

Julie says they got some rain. You guys need to check this place out!

Like · Comment · Share

Ashleigh Jordan-Dickerson
July 19 at 8:38am

Is it open today

Like · Comment · Share

Ryan Sartell
July 15 at 6:47pm

Will y'all be open to the public this week what is the entry fee? Thanks!

Like · Comment · Share

Phelps Farm Offroad Dirtbike Practice Track and Trails
July 15, 2013

Dylan Dela Cruz, Brent Hamm, Micheal Reynolds, James Caldwell, Ben and Joe Phelps



REVIEWS

Like · Comment · Share

Rowe Mozetta, James Caldwell, Jordan Keith and 4 others like this.

4.8 4.8 of 5 stars · 36 reviews

2013

HIGHLIGHTS ▾

Jason Greer —

Awesome-Justic That's

the first word I could think of to describe Phelps Farm Offroad Dirtbike Practice Track and Trails

Farm. The diverse trails and the July 15, 2013

See More

September 22, 2015 · 1 Review

Soupy mud to dust in 24 hours! I can't believe it! Track is prime!

2

Like · Comment

Giovanni Du-ay —

I had one of the best

days today because of Phelps Farm. The owner

is very nice and accommodating. I had a lot of

fun because the place is so big and

riding. I definitely recommend this

February 3, 2015 · 4 Reviews

1

Tell people what you think



8 TIME AMA NATIONAL HARE SCRAMBLE CHAMPION **JASON RAINES**



2015 AMA NATIONAL HARE SCRAMBLE CHAMPION **STEWART BAYLOR**



PEOPLE ALSO LIKE



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Like · Comment · Share

Justin Hibbs and E-Rock Fox like this.

2 shares



Mark Maelstrom Atwood
September 5 at 6:47am

Julie says they got some rain. You guys want to check this place out!

Like · Comment · Share



Ashleigh Jordan-Dickerson
July 19 at 8:38am

Is it open today

Like · Comment · Share



Ryan Sartell
July 15 at 6:47pm

Will y'all be open to the public this week what is the entry fee? Thanks!

Like · Comment · Share



Phelps Farm Offroad Dirtbike Practice Track and Trails
April 26, 2013 ·

Some of our favorite riders- Jordan Keith, Travis Markham and David Keith



Like · Comment · Share

REVIEWS

4.8 4.8 of 5 stars · 36 reviews

Rowe Mozetta and Travis Markham like this.



Jason Greer —

Awesome

the first word I could think of to describe Phelps Farm. The diverse trails and the hospitality ...

See More

September 22, 2015 · 1 Review · 2



Giovanni Du-ay —

I had 6 days today because of Phelps Farm. It is very nice and accommodating. Fun because the place is so big and riding. I definitely recommend the

February 3, 2015 · 4 Reviews · 1 1

Tell people what you think



Phelps Farm Offroad Dirtbike Practice Track and Trails
April 26, 2013 ·

Bubba Gump and Bryce Young showing Off!



Like · Comment · Share

Rowe Mozetta, Mike Elkins and Justin Fry like this.



Snow Creek Motocross
Sports & Recreation



Grand National Cross Country Series
Sports League



Phelps Farm Offroad Dirtbike Practice Track and Trails
April 26, 2013 ·



Rivers Edge Outdoors
Sports & Recreation

Checking lap times!

See more Sports & Recreation in Hardy, Virginia

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received
10/13/15 JAC

PHELPS FARM SOUND LEVEL READINGS

Good evening,

My name is Paul Hellkamp, my wife and I live on Edwardsville Rd. and we support Julie in her request for a special use permit.

We share in the impact to the community with close to 1000 feet of road front property directly across the street from the Phelps farm.

We wanted to be impartial and not let the concept of Julies business interest be a factor in our decision, as well as take into considerations the concerns that were shared at the community meeting by our neighbors.

I respect and appreciate Julies ambition to pursue a small business and utilize her property in ways that are positive to so many.

The benefits to her project provides endless opportunities for the residents of Franklin and surrounding Counties. I spoke with a gentleman and his 10-year-old son as they were eating lunch together after riding on Sunday, the image was priceless.

We could just as well be standing here talking about a subdivision, trailer park, sawmill, or a whole list of other business proposals that one could find objectionable.

The biggest concern voiced at the community meeting was the sound from the motorcycles.

I decided to take it upon myself to do a little sound testing and research. My original intention was to take sound recordings from all the surrounding residence.

once I started testing I scaled back my approach, as I discovered the readings from various locations on Edwardsville Rd did not exceed the Franklin county - (Sec. 12-34.) Maximum sound pressures levels. (except for the traffic)

Edwardsville road is as close to the source as any the way I understand the lay of the land.

I did multiple sound recordings without motorcycle's running to establish a base line. I then moved to various locations along Edwardsville Rd as well as in the middle of the track with riding all around on several different days.

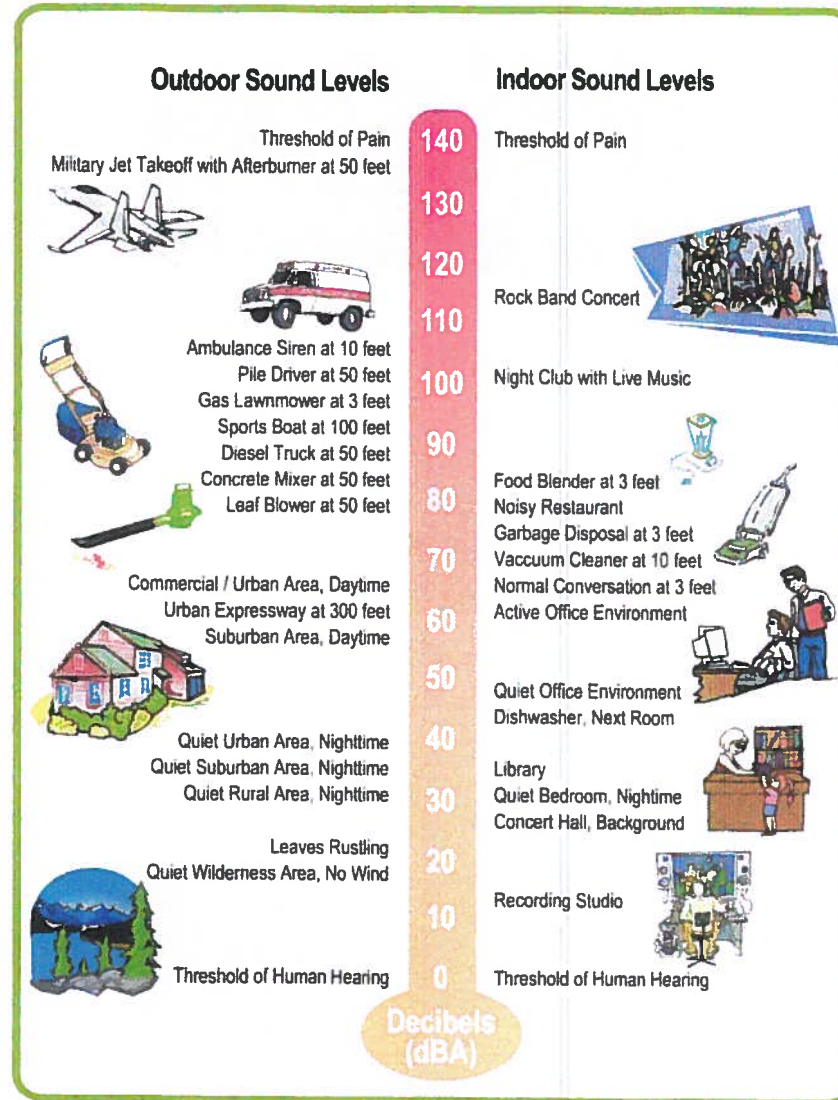
With the distances that her property provides and the natural tree line and hillsides, sound levels will fall well within county ordinance, even when the number of bikes are increased.

Although my information is not nearly as detailed as an official acoustic Engineer report would be, I do feel it is sound.

I have provided you with copies for review along with brief explanations of the details of the surrounding sound sources.

Thank you for your time.

Typical Sound Levels (dBA)



Source: URS Corporation, 2008

Data Logging Sound Level Meter

Records data on an SD card in Excel® format
For easy transfer to a PC for analysis

Features:

- High accuracy $\pm 1.4\text{dB}$ meets ANSI and IEC 61672-1 Type 2 standards
- 30 to 130dB measurement range
- Auto or Manual ranging
- AC analog output for connection to an analyzer or recorder
- Large backlit LCD display
- Stores 99 readings manually and 20M readings via 2G SD card
- Records readings with real date and time stamp
- User programmable sampling rate: 1 to 3600 seconds
- Min/Max and Data Hold functions
- Auto power off with disable function
- Built-in PC interface
- Complete with 6 AA batteries, SD Card, wind screen, and hard carrying case



Meets new IEC 61672-1 Class 2 accuracy standard for OSHA and other local and national noise ordinances.



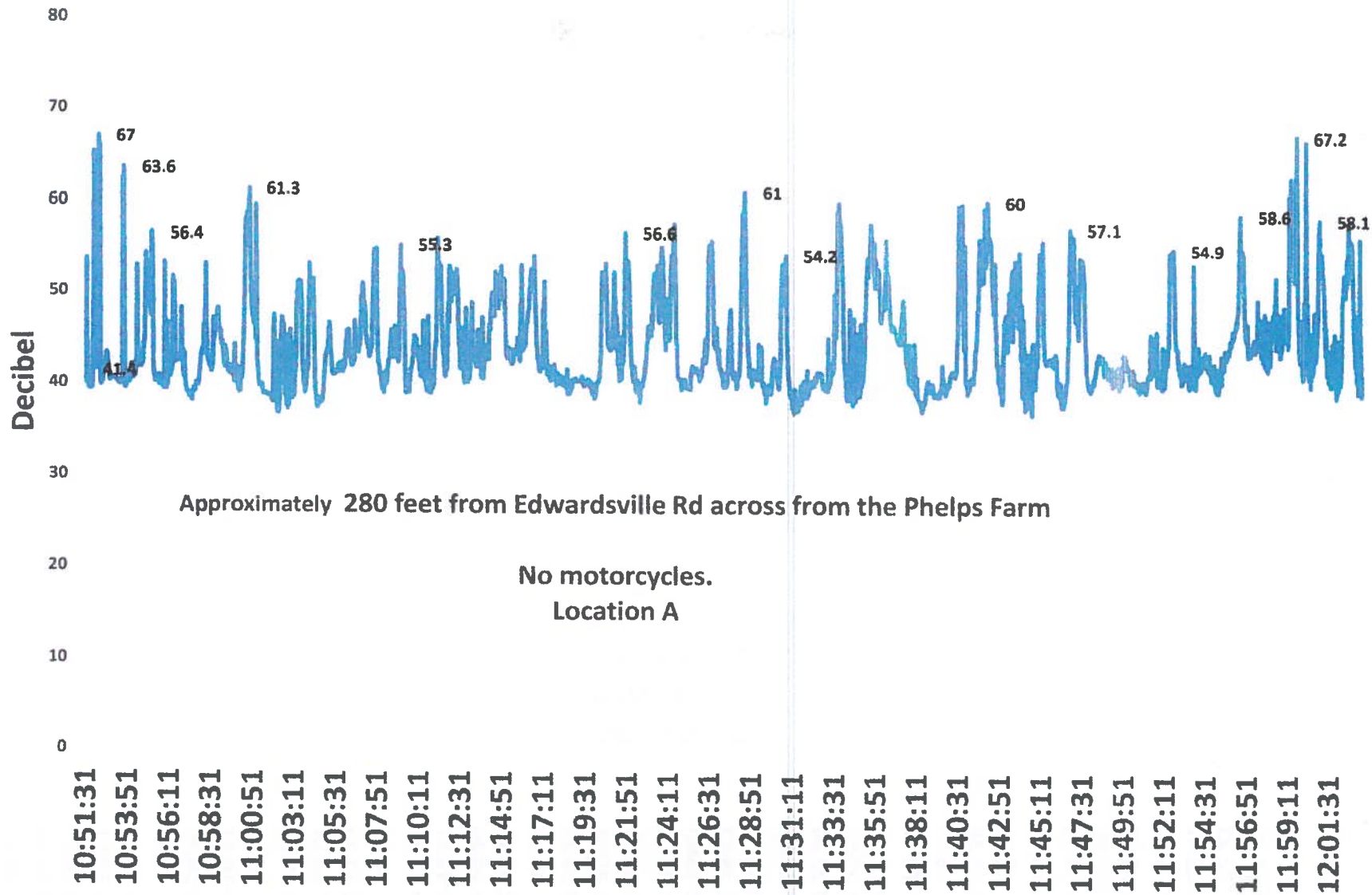
Specifications

Range	30 to 130dB (3 ranges)
Basic accuracy	$\pm 1.4\text{dB}$
Frequency Range	31.5 to 8000Hz
Weighting	A and C
Response Time	Fast (125ms) / Slow (1s)
Datalogging	20M data records using a 2G SD card
Analog Output	AC
PC Interface	USB
Dimensions	9.8 x 2.9 x 1.9" (250 x 73 x 48mm)
Weight	18.3oz (520g)

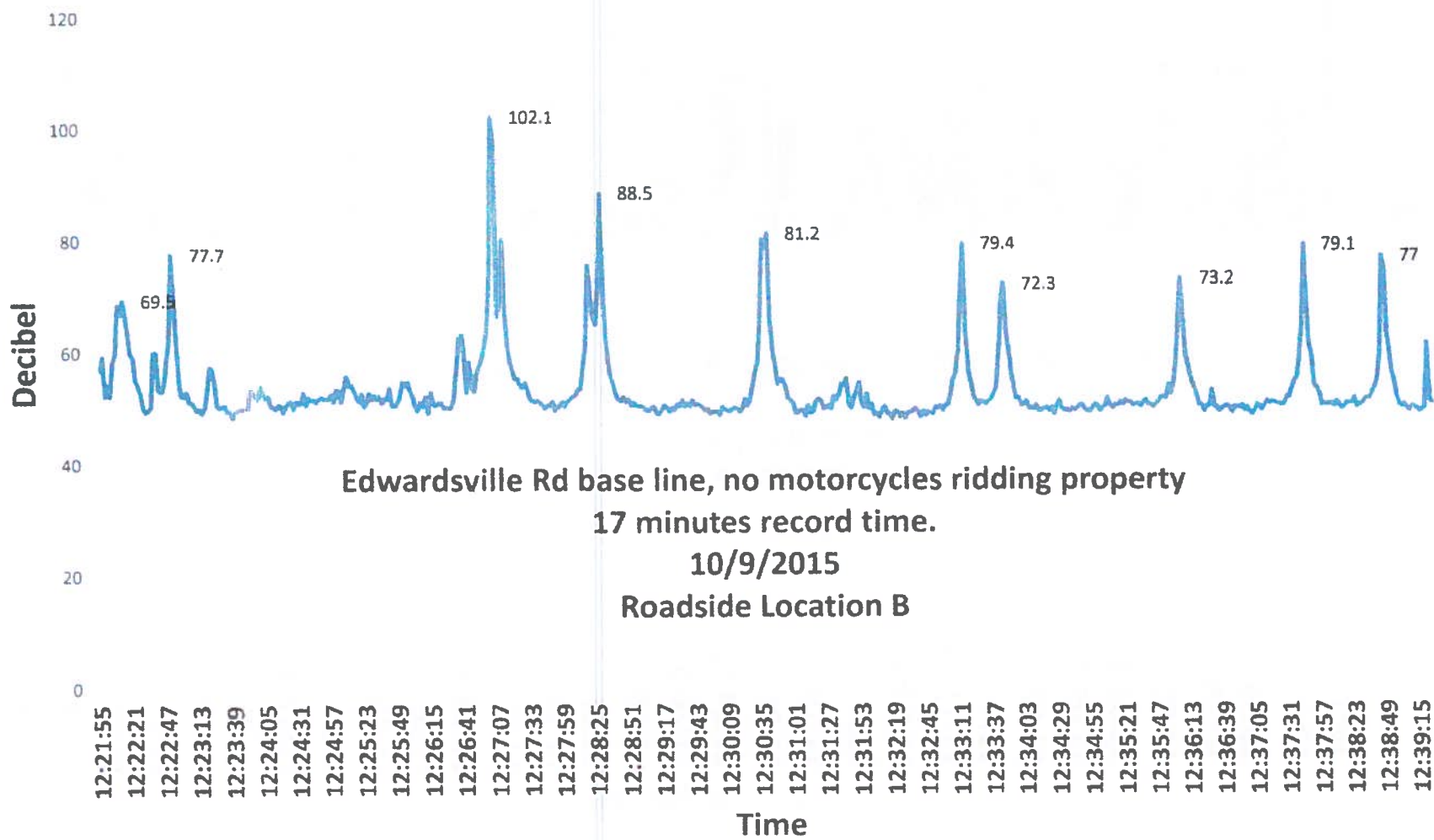
Ordering Information:

- SDL600Data Logging Sound Level Meter
 SDL600-NIST Data Logging Sound Level Meter with Calibration Traceable to NIST.
 40774494dB Sound Calibrator for 0.5" and 1" microphones
 40776694/114dB Sound Calibrator for 0.5" and 1" microphones
 153117117V AC Adaptor
 UA100-240100-240V AC Adaptor with 4 plugs (US, EU, UK, AU)





10/10/15



Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
5076 Edwardsville Road, Hardy, Virginia

Dear Honorable Members of the Planning Commission and Board of Supervisors:

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Her proposal for a practice motocross track and youth ministry camp will be a great asset for Franklin County as well as the whole East Coast. It will also be a great source of revenue and provide jobs for Franklin County.

Our entire country needs more facilities like this to keep kids off the streets and keep families together.

My family and I fully support this project.

Sincerely,

 Penny Wingo

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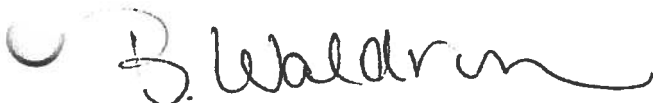
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Sincerely,

Christy Waldron

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My family and I fully support this project.

Sincerely,

J. D. W.

*509 Hillside Ave NW
Rocky, VA 24156*

C.P.A.

A. Anderson

Franklin County Planning Commission
Franklin County Board of Supervisors
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Sincerely,

Kevin Hicks

Kevin Hicks

10032 Jeter Chapel Rd
Vinton VA 24179

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Sincerely,

Christopher Dillon
Chris Dillon

1091 Holiday Cir
Vinton VA 24179

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Sincerely,

A handwritten signature in black ink, appearing to read "Shan W.", with a long horizontal flourish extending to the right.

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Robert F. O'Brien

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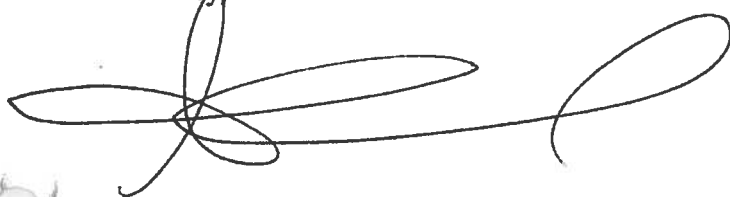
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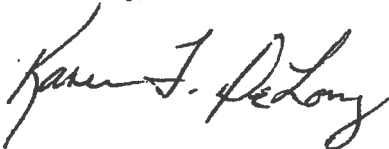
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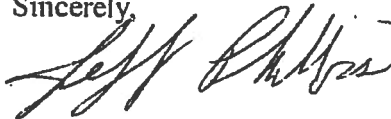
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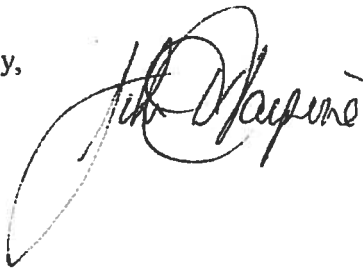
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Sincerely,

A handwritten signature in cursive script, appearing to read "John Mayhew". The signature is written in dark ink and is positioned to the right of the word "Sincerely,".

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Franklin County Board of Supervisors
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Sincerely,

Brittany Huddleston

Franklin County Planning Commission
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County of Franklin, Virginia
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Sincerely,

Michael Webster

Franklin County Planning Commission
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County of Franklin, Virginia
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Perry Lucas

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Sincerely,

Amanda Lucas

Franklin County Planning Commission
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County of Franklin, Virginia
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Sincerely,

Peggy Lucas

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Sincerely,

Alice Muse

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Sincerely,

Jimmy Hunt

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Sincerely,

Bryan Stout

Franklin County Planning Commission
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Sincerely,

Mark Stout

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Sincerely,

Cmy Pham

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Sincerely,

Chasity
Logan

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Jaye Conner

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Sincerely,

Charity Logan

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Her proposal for a practice motocross track and youth ministry camp will be a great asset for Franklin County as well as the whole East Coast. It will also be a great source of revenue and provide jobs for Franklin County.

Our entire country needs more facilities like this to keep kids off the streets and keep families together.

My family and I fully support this project.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Jones", is written over the "Sincerely," text.

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
5076 Edwardsville Road, Hardy, Virginia

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My family and I fully support this project.

Sincerely,

Minda Short

Burt Smith

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
5076 Edwardsville Road, Hardy, Virginia

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Sincerely,

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Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
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Rocky Mount, Virginia 24151

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My family and I fully support this project.

Sincerely,

Lisa Z. DeWese

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
5076 Edwardsville Road, Hardy, Virginia

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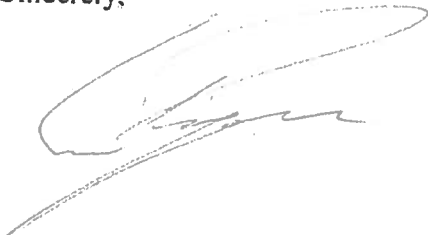
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My family and I fully support this project.

Sincerely,

A handwritten signature in dark ink, appearing to be a stylized name, possibly "Julie Phelps", written over a horizontal line.

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
5076 Edwardsville Road, Hardy, Virginia

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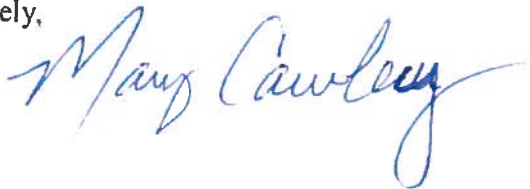
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My family and I fully support this project.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mary Cawley". The signature is fluid and cursive, with a long, sweeping underline.

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
5076 Edwardsville Road, Hardy, Virginia

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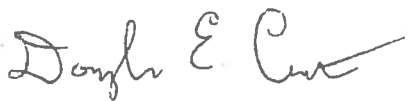
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My family and I fully support this project.

Sincerely,



Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

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My family and I fully support this project.

Sincerely,

Ricky Stout

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
5076 Edwardsville Road, Hardy, Virginia

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My family and I fully support this project.

Sincerely,



Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
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My family and I fully support this project.

Sincerely,

Darlene Akers

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
5076 Edwardsville Road, Hardy, Virginia

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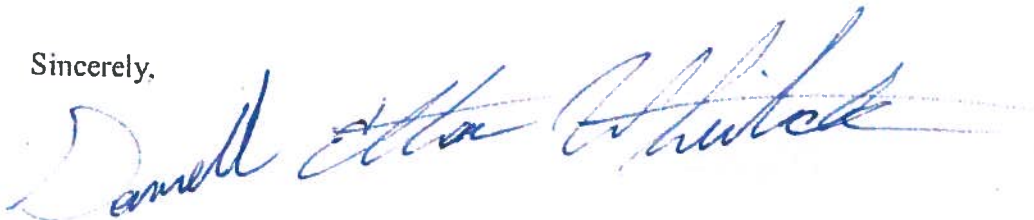
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My family and I fully support this project.

Sincerely,

A handwritten signature in blue ink, appearing to read "Daniel E. Hatcher", with a long horizontal flourish extending to the right.

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
5076 Edwardsville Road, Hardy, Virginia

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My family and I fully support this project.

Sincerely,

Wanda StClair

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

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5076 Edwardsville Road, Hardy, Virginia

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My family and I fully support this project.

Sincerely,


W. N. B.

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

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My family and I fully support this project.

Sincerely,

Julie Phelps

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
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Rocky Mount, Virginia 24151

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My family and I fully support this project.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brad Hunt". The signature is stylized with a large, looped "B" and a long, sweeping "H".

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

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My family and I fully support this project.

Sincerely,

N. W. Sutphin

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

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My family and I fully support this project.

Sincerely,

Robert Barber

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

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Sincerely,



SCOTT GROVES

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

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My family and I fully support this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Lott". The signature is written in a cursive, somewhat stylized font.

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
5076 Edwardsville Road, Hardy, Virginia

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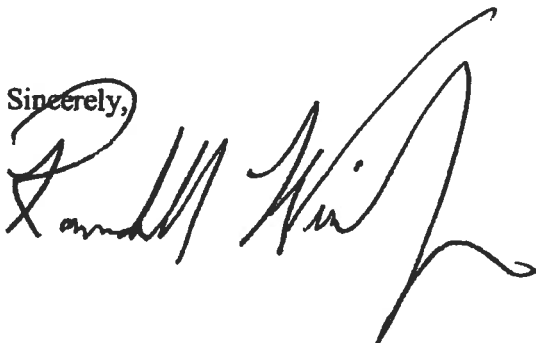
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My family and I fully support this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Randall Kirk", written over the word "Sincerely,".

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
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Sincerely,

A handwritten signature in cursive script, appearing to read "Wendy Hill".

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

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My family and I fully support this project.

Sincerely,

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Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

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Sincerely,

John E. Brown

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
5076 Edwardsville Road, Hardy, Virginia

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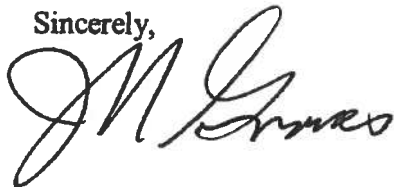
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My family and I fully support this project.

Sincerely,

A handwritten signature in black ink, appearing to read "J. M. Graves". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
5076 Edwardsville Road, Hardy, Virginia

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My family and I fully support this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Gove", with a long horizontal flourish extending to the right.

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
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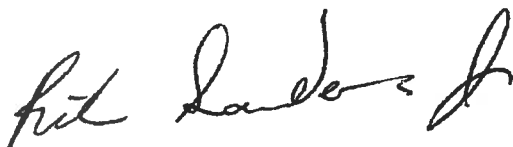
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My family and I fully support this project.

Sincerely,

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Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
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Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
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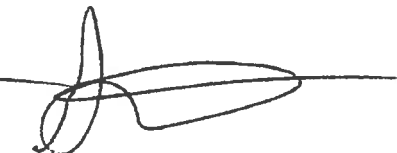
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My family and I fully support this project.

Sincerely,


Matt
Graham

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
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Rocky Mount, Virginia 24151

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My family and I fully support this project.

Sincerely,



Matthew Teeter

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
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My family and I fully support this project.

Sincerely,


JASON E. PERRY

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
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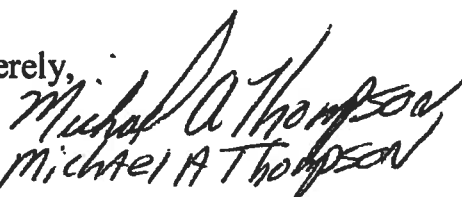
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My family and I fully support this project.

Sincerely,


Michael A. Thompson

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
5076 Edwardsville Road, Hardy, Virginia

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My family and I fully support this project.

DONNIE ZOLLNER


Sincerely,

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
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Rocky Mount, Virginia 24151

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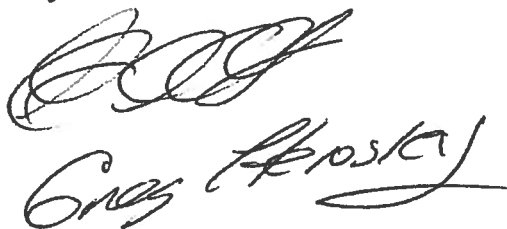
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Her proposal for a practice motocross track and youth ministry camp will be a great asset for Franklin County as well as the whole East Coast. It will also be a great source of revenue and provide jobs for Franklin County.

Our entire country needs more facilities like this to keep kids off the streets and keep families together.

My family and I fully support this project.

Sincerely,



Greg Haskin

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
5076 Edwardsville Road, Hardy, Virginia

Our Honorable Members of the Planning Commission and Board of Supervisors:

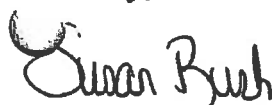
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Sincerely,



Susan Bush

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
5076 Edwardsville Road, Hardy, Virginia

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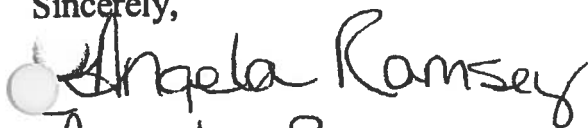
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Sincerely,


Angela Ramsey

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
5076 Edwardsville Road, Hardy, Virginia

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Sincerely,

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Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
5076 Edwardsville Road, Hardy, Virginia

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Sincerely,

CODY RAMSEY



Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
5076 Edwardsville Road, Hardy, Virginia

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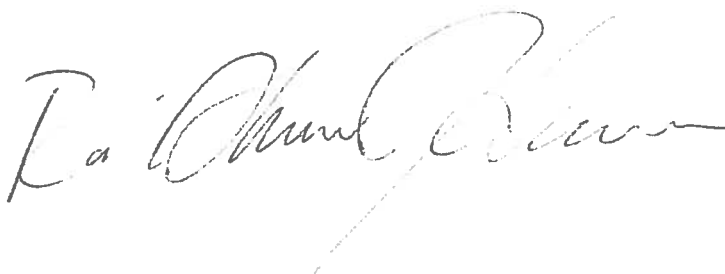
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Sincerely,



September 29, 2015

To the Zoning Board,

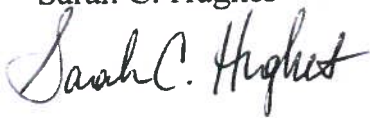
My name is Sarah Hughes. I graduated with honors from Radford University less than a year ago. I live with my parents at this time so I can pay down college loans. I immediately began working as a Registered Nurse for Carilion Franklin Memorial Hospital. I work as a night nurse and have to sleep during the day.

I do not agree with having the property rezoned. The Phelps have been running a practice track with dirt bikes for years, even having instructors and events that have been posted online. The Phelps rent out their cabin to these individuals that are then directed down Daylily Lane within a few feet of our home. They bring large trucks and trailers carrying heavy loads of un-muffled dirt bikes. The un-muffled dirt bikes and riders disturb the peace and quiet that my family used to enjoy. They wake me up and it's very difficult to get back to sleep. They care nothing about others and have never once contributed to the maintenance of the road despite their personal use and the use of the guests that they rent to.

Ms. Phelps even stopped me on the road between our house and their property about two months ago. I was on my way to work and she told me that she was spraying the poison ivy that lined her fence and that she was going to make improvements in that area because it looked so bad with broken fences and thorn bushes. She said that her husband wanted it that way because he would "do anything to annoy your father." I have seen her on the road with her 4-wheeler many times since then, but no improvements have been made. I don't believe that Ms. Phelps' business endeavors will add anything to our area except noise, dust, annoyance, and discord between property owners.

Thank you for your time,

Sarah C. Hughes



received
9/30/15 Inc

Crouch, Lori

received
9/30/15 Jm

From: Matthew Harless [jmhdoc@gmail.com]
Sent: Wednesday, September 30, 2015 2:40 PM
To: Crouch, Lori
Subject: Case#SPEC-9-15-14745

Dear planning commission and board of supervisors,

Regarding Julie L. Phelps request for special use permit:

I reside at 385 Pond Lane, Hardy, Va. Julie is my nearest neighbor. Over the last several years she and her boys have developed a series of motocross trails spanning the property and approximating the perimeter (at times, crossing property lines). The noise of two stroke and four stroke (some lacking mufflers) and quads is deafening. Invitees frequently lack directions and come down my driveway (posted NO TRESPASSING) arriving at my home honking horns asking if they have arrived at the intended address. I, and the Hughs' daughter, are both health care professionals at regional hospitals and work frequent night shifts. Even with earplugs in, we are unable to sleep on weekends throughout the year (except with inclement weather). Moreover, during the summer, with kids out of school, it persists daily. We, as rural Franklin Co. residents, did not move here to have to endure this obnoxious mayhem. To even think it could exponentially worsen is horrifying. This is not- and should not- be allowed to become commercialized. Indeed, it would ruin one of the most picturesque farms in the county. The proposition reflects no sense of country stewardship and is in total disregard for neighbor's tranquility. I have friends living up to five miles away who are disheartened and offended by the disruption in our collective peacefulness. When I have a rare weekend off, with hopes of grilling out or fishing or riding bicycles (silent) or walking my dogs with friends on my 92.5 acre farm, all activities are disrupted by the incessant noise. In addition, wildlife for viewing and hunting are spooked away. Her proposition seems to be entirely self-centered with benefit to few (many not locals) and devastation to a quality of rural life to many. For the Commission to even consider such a proposal, the applicant should have many hundred of acres if not thousands of acres and no close proximity to neighbors. Our neighborhood is not and should not be subjected to this. We are zoned agricultural district A-1 and should not entertain this special use request- for good reason.

equally as importantly, our collective property values will be devastatingly diminished. If WE do not care to be exposed to this disruption in country living, who would? (would you?) does the committee suggest we all do the same? I surely hope not.

I have personally witnessed her kids and other "guests" under 16 years old riding on technical trails without any protective gear. There have been, as anticipated, injuries. There is not and cannot be adult supervision as they ride through the woods.

with all respect, Julie has been a long time friend...but this proposal is ludicrous...incomprehensible.

I welcome any and all members of the commission to come to my farm any weekend before any final decision is made and experience what is already taking place.

sincerely,

James Matthew Harless, MD

David R. and Angela W. Janney
5202 Edwardsville Road
Hardy, VA 24101

received
9/30/15 Jm

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community
1255 Franklin Street, Suite 103
Rocky Mount, VA 24151

Re: Case # SPEC-9-15-14745
Tax Map #0110003302, 0110003300, 0110000302B, and 0110003100.

Applicant: Julie L. Phelps

28 September, 2015

Dear Sir/Madam,

This letter refers to the above mentioned case regarding consideration for a Special Use permit for the use of 5076 Edwardsville Road in Hardy, to develop a motocross training facility, summer youth camp facility and retreat facility. We are adjoining property owners to the Phelps Farm on the Edwardsville Road side (see attached tax map). We have reviewed the plans for this property at a recent neighborhood meeting and we are writing to offer our support for Julie Phelps' proposal. We are very excited for what this proposal could mean for the Hardy area for several reasons.

First, we feel that this local track has been and will continue to be a major contribution to the local kids and adults who ride motocross. It gives these participants an affordable place to ride without traveling long distances. For the younger kids who need guidance and a place to be with a purpose, other than "hanging out at the mall" or just "running the streets," they have somewhere to go and be part of a recreational and positive activity. Motocross is a sport that brings many families and friends together for some good, clean fun. It will not only be an asset for our local economy but it will also help Ms. Phelps to support her family. It will be somewhere people can go and unwind after school or work.

We are aware of a small number of neighbors who are concerned about a decrease in property value due to the noise associated with a motocross facility in the area. However, we would like to point out that in the state of Virginia, you are not required to disclose anything that is not within the four corners of your property. Furthermore, property value is based on the property itself as well as the value of the homes directly surrounding the property in question. What this motocross facility may affect is the marketability of a property, not the value. Speaking from our personal experience, when we first began looking at our current home a little over a year ago, we heard the motocross bikes riding on the land behind the house and it did not in any way deter us from purchasing our home. We are of the firm opinion that when you choose to move to a rural area, you are moving away from city noise while choosing to move toward what we consider "country noise" - that of tractors, 4WD

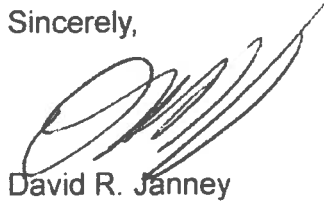
vehicles, quads and dirt bikes.

Secondly, we want to express our support and excitement regarding the proposed youth camp and retreat centers, Phases II and III of Ms. Phelps' proposal. We are very happy that Ms. Phelps plans to keep the overall wooded atmosphere of the Phelps Farm property intact. It is a very beautiful piece of land and adds to the overall bucolic nature of our area. We are very excited about what a youth camp and retreat center would mean for our area. The proposed youth camp and retreat center would provide a place for churches to go for spiritual retreats, childrens' camps, youth group retreats, couples' retreats... the list is endless. Once the youth camp is in full swing, hundreds of kids would be coming to Phelps Farm each week during the summer for outdoor activities. But, more importantly, they would be learning about our Lord and Savior, Jesus Christ.

In closing, we would like to point out that if kids and families don't have positive places to spend their time, if kids can't participate in positive recreational activities like those listed above, and if facilities like the ones proposed here are not readily available, then what's to keep our youth and young adults from turning to less reputable activities to occupy their time? Lastly, if people can't come to Franklin County, Virginia, to enjoy these activities... then where can they go?

Thank you for considering our opinion on this matter.

Sincerely,



David R. Janney

and



Angela W. Janney

Adjoining Property Owners

received
9/30/15 JCC

Calvin L. Plybon
Juanita C Plybon
4374 Edwardsville Rd.
Hardy, Va. 24101
September 25th, 2015

Franklin County Planning Commission
Franklin Board of Supervisors
County of Franklin , Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
5076 Edwardsville Road, Hardy, Virginia

Dear Honorable Members of the Planning Commission and Board of
Supervisors:

WE AND OUR FAMILY DO NOT SUPPORT the Request for a Special

Use Permit (# SPEC-9-15-14745) for Numerous Reasons

WE DO NOT FEEL OUR RESIDENTIAL NEIGHBORHOOD should be
allowed to become a Public Recreation Facility.

This Road already has too much traffic for the safety of the property
owners; there is already LOTS of NOISE on that property without it going
PUBLIC.

We would like enjoy the peace and quietness we once had and would
appreciate Very Much being respected enough to keep it that way.

Thank Each of You for Your Serious Consideration And Respect for
the Property Owners this location and VOTE NO in regard to this Special
Use Permit.

Sincerely,

Calvin L. Plybon
CALVIN L. PLYBON

Juanita C. Plybon
JUANITA C. PLYBON

RECEIVED SEP 2 1 2015

Stephen Preston Stone
1 Lancer Lane
Mt Pleasant, South Carolina
29464

Mr Steven M Sandy
Dept Planning & Community Development
1255 Franklin Street Suite 103
Rocky Mount, Virginia 24151

17 September 2015

Dear Mr Sandy,

This letter is in reference to case # SPEC-9-15-14745, applicant Julie L. Phelps. I understand that the applicant has submitted a Special Use Permit which includes Motocross practice / training facility as well as ministry and gospel based education facility.

While I respect Ms. Phelps entrepreneurial spirit in this endeavor, I strongly oppose this request. This is clearly the wrong place for these (already ongoing) activities for a number of reasons.

1. NOISE

My wife and I have personally experienced the disturbing and disruptive noise of the motocross vehicles. It is well documented that exposure to this type of noise is harmful to people and also wildlife. This is obviously an infringement on people who have chosen to live in this beautiful natural area and a danger to wildlife.

2. FIRE HAZARD

Sparks emitted by internal combustion engines pose a threat of fire. Most states require a US Forest Service approved spark arrestor on these vehicles. They are apparently NOT required at the Phelps Farm facility.

3. ENVIRONMENTAL DEGRADATION

Motocross training facility is subject to soil erosion and compaction. This makes it difficult for rain to permeate the ground which leads to run off issues such as excess sedimentation in waterways. This then leads to clogged streams, fish die off and disruption of habitat. Additionally, there are air quality issues. One 2 stroke engine emits as much pollution as 30 automobiles. This, of course, is in addition to the automobiles hauling trailers to arrive at the facility.

4. POTENTIAL FOR ENCROACHING ON NEIGHBORING PROPERTIES

There is potential for motocross riders to ride outside of the boundaries of the Phelps farm.

for instance, an internet search revealed the following:
from VITALMX:

"come down to Phelps Farm- it's in Hardy and they have like 800 acres of trails and loops"

from RIDERPLANET

"no permit required" "daily dawn till dusk" "400 acres"

Phelps Farm is 185 acres. No corrections have been made to these easily accessible internet sites.

5. LACK OF RESTRICTIONS AND CERTIFICATIONS

There are minimal restrictions for motocross riders at Phelps Farm. Thankfully, a helmet is required by Virginia State Law. Also riders under 18 yrs old must be accompanied by an adult.

Ms Phelps states under "noise" in the special use permit narrative that there will be hours of operation. Currently, she states on Facebook they are open for business "7 DAYS A WEEK. SUN UP TO SUN DOWN"

Below is a published list of requirements

Spark arrestor- NOT REQUIRED

2 stroke/2cycle engines(less fuel efficient, more polluting, louder- NO RESTRICTION

Max Sound Limit -NO LIMIT

Muffler- NOT REQUIRED

Operator license- NOT REQUIRED

Rider education certification-NOT REQUIRED

Chest protection-NOT REQUIRED


So, it seems that riders can be there sun up until sundown 7 days a week with no precautions taken to reduce noise or pollution. Furthermore, minimal safety restrictions (helmet, goggles, boots) are in place. No license or certification of any type is required.

6. POSSIBLY SEEKING TAX EXEMPTION (?)

It seems to me that this facility with its lack of restrictions, certification or licensure of riders has potential to burden community resources- particularly EMS, Fire and environmental agencies. It is curious to me that Ms Phelps has proposed "ministry" and gospel based" education. An internet search provided not even the slightest interest or involvement in this type of activity at Phelps Farm. I certainly hope that she is not aiming for federal and/or state tax exempt status. Certainly Ms Phelps would not presume to have this high risk activity available at the farm with the possibility of needing community services without paying taxes. This perhaps newfound and convenient interest in ministry/gospel needs further investigation and scrutiny.

As an adjoining property owner, I am vehemently opposed to this special use permit. Furthermore, I would like to see the existing business closed or restricted to fewer hours of operation.

Sincerely,



Stephen P. Stone



received
9/30/15 Jac

COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION

731 Harrison Ave., P.O. Box 3071
Salem, VA 24153-0560

CHARLES A. KILPATRICK, P.E.
COMMISSIONER

September 30, 2015

Franklin County Planning Dept.
1255 Franklin St., Suite 103
Rocky Mount, Virginia 24151

Dear Mr. Sandy:

REFERENCE: DRT Comments: Phelps Farm
Purpose : Special Use Permit
Applicant : Julie Phelps
Tax Parcel : 0110003302, 01100003300, 0110000302B & 0110003100
Route 680 (Edwardsville Rd.); Franklin County

This correspondence is in reference to the above mentioned rezoning request submitted to this office on September 8, 2015. We have reviewed the concept plan and offer the following comments:

1. Please provide a traffic impact narrative to include the anticipated traffic per the ITE Trip Generation Manual, 9th Edition for the proposed land use. Also, include turn lane analyses.
2. A VDOT Land Use Permit will need to be established for the proposed entrance(s).
3. Please clarify the use of the Day Lilly Lane entrance. If the entrance is used for anything other than private residential use, a Low Volume Commercial Entrance or Commercial Entrance will need to be established.
4. In order to determine compliance with the Access Management regulations, the entrance centerline spacing to the nearest intersection(s) and/or commercial entrances will need to be denoted.

Prior to any construction within VDOT's right of way, a Land Use Permit must be obtained. Please contact Lisa Lewis at (540) 493-4127 for information on obtaining the required permit.

Sincerely,

Brian Casella, PE, LS
Area Land Use Engineer
Bedford Area Land Use

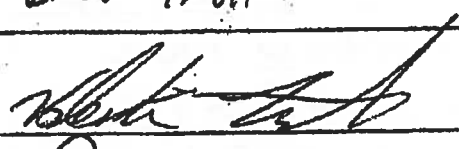
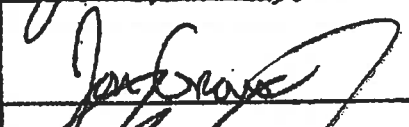
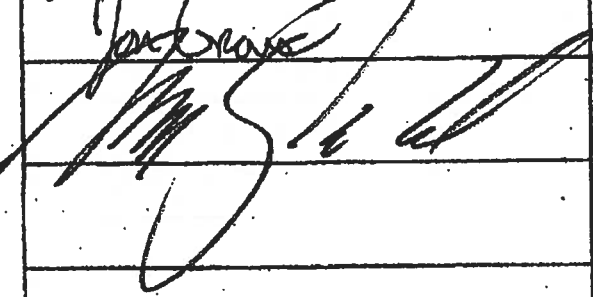
LDL/lbc

www.VirginiaDOT.org
WE KEEP VIRGINIA MOVING

Cy: Land Development Project File

Phelps Farm!

I have reviewed and SUPPORT the proposal by Julie Phelps for a Special Use Permit for a motocross practice / training facility, ministry summer camp, and ministry campground and cabins on her 185- acre farm at 5076 Edwardsville Road.

Name	Address
DeLaney Groves	6331 Winter Drive Boones Mill, VA 24065
Ryan Reader	6422 Pan Lynn Drive Roanoke, VA 24018
Stephanie Engeman	3417 Forest Hill Ave NW Roanoke VA 24012
Scott Grove	6331 Winter Drive Boones Mill, VA 24065
Brad Trotter	4831 Hunting Hills Dr. Roanoke VA 24018
	3747 Roway Ave NW Roanoke VA 24018
John & Brown	1109 Holbert SW Roanoke, VA 24015
JN Limes	2534 Doolittle Rd Heathsville, VA 22473
	711 Selenite Roanoke, VA 24014
	2965 Colonnade Drive Suite 225 Roanoke VA 24018

Phelps Farm!

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Name	Address
Chris Alouf CH	5160 Singing Hills Rd Roanoke, VA 24014
Hollie Alouf HA	5160 Singing Hills Rd Roanoke, VA 24014
STEVE BUTCHER (SB)	79 E. WEAVER AVE HARRISONBURG VA 22801
JAYME Alexander	346A Colonial Ave, B-8 Roanoke VA, 24018
Giovanni Duay	379 Highland Ave SW Roanoke, VA 24016
Jaye Clark	520 Red Horse Lane Buchanan VA 24066
Prerice South	520 Red Horse Lane Buchanan, Va. 24066
Asgh Khan	6324 Union Church Rd. Thaxton, VA 24174
JUAN JARAMILLO	428 Liberty Rd Roanoke VA 24012
Scott Mullins	6851 Crowell Gap Rd. Roanoke, Va. 24014

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
5076 Edwardsville Road, Hardy, Virginia

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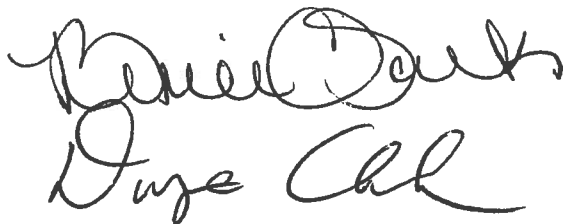
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My family and I fully support this project.

Sincerely,


Denise Clark

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
5076 Edwardsville Road, Hardy, Virginia

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My family and I fully support this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph Evans". The signature is written in a cursive style with a large, stylized "J" and "E".

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
5076 Edwardsville Road, Hardy, Virginia

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My family and I fully support this project.

Sincerely,

John A. Franklin

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
5076 Edwardsville Road, Hardy, Virginia

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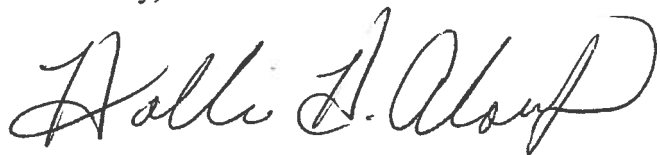
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My family and I fully support this project.

Sincerely,

A handwritten signature in cursive script, reading "Hallie L. Alouf". The signature is written in dark ink and is positioned below the word "Sincerely,".

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
5076 Edwardsville Road, Hardy, Virginia

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My family and I fully support this project.

Sincerely,

A handwritten signature in black ink, appearing to be 'C. J. Phelps', with a long horizontal flourish extending to the right.

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
5076 Edwardsville Road, Hardy, Virginia

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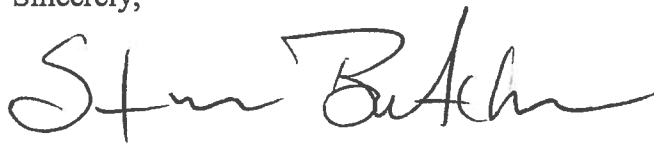
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Our entire country needs more facilities like this to keep kids off the streets and keep families together.

My family and I fully support this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Butcher". The signature is fluid and cursive, with the first name "Steve" and last name "Butcher" clearly distinguishable.

Franklin County Planning Commission
Franklin County Board of Supervisors
County of Franklin, Virginia
c/o Department of Planning and Community Development
1255 Franklin Street, Suite 103
Rocky Mount, Virginia 24151

RE: Application for Special Use Permit
5076 Edwardsville Road, Hardy, Virginia

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A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

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Sincerely,

Roxann G Martin
4418 Oliver Rd. NE
Roanoke, VA 24012
(540) 580-9610

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County of Franklin, Virginia
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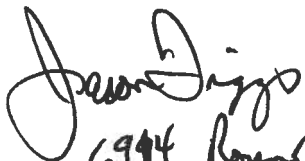
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6944 Rounshe Rd
Shawsville VA 24162

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Sincerely,

Negal W. Payne
1097 RED FOX LANE
PULASKI, VA 24301-

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Sincerely,


P.O. Box 13503
Roanoke VA 24034

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Sincerely,

W. H. Buckland (W. H. Buckland)
5732 CAPITOL ST.
ROANOKE, VA. 24019

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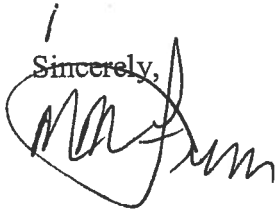
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748 ROCK LICK RD WIRTZ V/ 24184

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Sincerely,

Michael Murray

7950 SHADWELL DR HOLLINS VA 24019

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County of Franklin, Virginia
c/o Department of Planning and Community Development
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Rocky Mount, Virginia 24151

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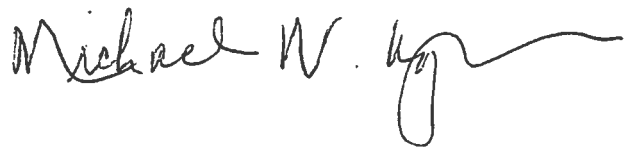
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Sincerely,



Michael W. Agee
8130 Callaway Rd.
Callaway, VA 24067-4252

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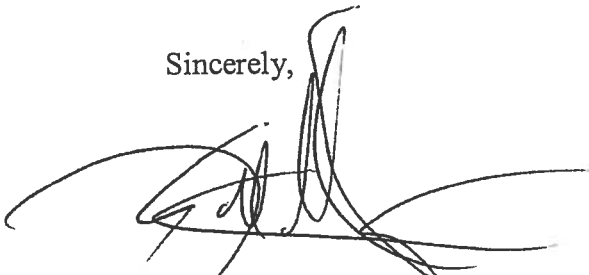
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Sincerely,



3530 Mudlick Rd, SW
Roanoke, VA 24018

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Sincerely,

Gary Young
976 Bonbrook Mill Rd
Rocky Mt, VA 24151

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Sincerely,

Melissa L Bernyp
3232 Brandywine Ave
Roanoke, VA 24018

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Sincerely,

Alabius Hoga

*642 Brookfield LN
Rte., Va. 24012*

November 3, 2015

To the Planning Commission and Board of Supervisors of Franklin County

My name is Rose Sachs. I recently moved to the Cooper's Cove Community from the Washington, DC area. I am writing to voice my opposition to the proposed Phelps Farm Motocross proposal.

The selection of this peaceful, bucolic community was not solely based on aesthetics, but rather, in large part, on health considerations. During the last General Meeting at the Cooper's Cove Community Center, I became aware that an off-road dirt bike/motorcycle practice and racing facility is already in operation and has been for the past two years at Phelps Farm, 5076 Edwardsville Road, which is approximately three miles from my home. I verified the situation on line, and to my surprise, indeed, with no permit allowing a commercial operation on that property, the track is, and has been, at Phelps Farm, advertised as a commercial facility. As a very new member of this community, I am troubled by both the lack of respect for zoning ordinances and the lack of consequence. Even more troubling is that now a request for a Special Use Permit has been filed in order to construct, or perhaps more accurately, to expand the current facility to a full-scale, full-use Motocross Track. I have significant concerns about the destruction of the quality of life and property values that will occur for me, for my neighbors, and for the community as a whole, should the construction of this for-profit recreational facility come to pass.

Hazardous Driving Conditions: In order to access the necessities of daily life, such as schools, groceries, medications, etc., residents in my community must travel on Edwardsville Road to get to Hardy Road. This is the case as well for the doctors' offices I visit regularly and emergency medical care. These roads are single-lane, winding, and were constructed for residential traffic. Phelps Motocross is advertised as a family activity that takes place all year round; the Phelps Motocross track proposes to accommodate several hundred motorcycles. There is no doubt that hundreds of motorcycles, SUV's, and other recreational vehicles added to these very narrow roads on an on-going basis will impact this community in many ways, the least of which will not be creating horrific traffic jams and hazardous driving conditions that will affect both abutting properties and surrounding areas. An additional, and very significant, concern is that the traffic will impede the access of emergency vehicles to our neighborhoods.

Inconsistent with the Comprehensive Plan: The Phelps Motocross Project is a high-impact commercial use facility, and therefore, is totally inconsistent with the Comprehensive Plan and incompatible with rural residential planning. In addition to traffic considerations, the Motocross will bring health hazard in terms of noise, dust and pollution from motorcycle fumes. The noise level in terms of loudness, intensity, and duration of up to 300 motorcycles at any given time, as well as the dust and fumes they will produce, would certainly meet the criteria of a health hazard and a public nuisance. Not only is a motocross hazardous to the individuals in our community, it pollutes the land and creates continuing environmental damage. It appears that the existence of a Motocross track creates additional work for the county as well, in terms of enforcing code infractions and ongoing struggles related to traffic, crowd control, noise, and regulating environmental damage.

Adverse Impact on the Community Character and Cohesion: I have conducted some preliminary research on proposed Motocross Tracks across the country. In addition to concerns about traffic, noise, and pollution, most, if not all, appear to be characterized as *pitting neighbors against neighbors*, or more precisely, pitting neighbors against entire neighborhoods. As one of the newest members to this community, I am impressed by both the diversity and the cohesion.

Clearly, the character of a residential community will change with the addition of up to 300 motorcycles, as well as other vehicles per day. Franklin County Policy states that this area *exhibits suitable soil, relatively flat terrain, good road networks, shorter commute times and proximity to urban amenities*. And that while *some agricultural land may be converted to residential subdivisions in the future, the focus should be on compatibility, scale, and impact on roads, schools, public services, and other public infrastructure*. Moreover, bringing hundreds of individual and families, as well as vehicles, into this community may create a need for crowd control. I cannot find anything positive that the building of a Motocross Track will bring to this tranquil community. Maintaining the current character of the community will be impossible. I also fear that the County does not have the personnel to actually enforce noise and pollution violations that are certain to occur.

Decline of Quality of Life and Property Value: Creating dangerous road conditions, that affect safety, travel time for work, recreation, and needs of daily living, generating hazardous environmental circumstances, including noise and air and land pollutants, and opening our community to hundreds of individuals who have no vested interest in the community, clearly and without a doubt, will adversely affect the quality of life of every member of the community and put each of us at risk. Moreover, under Real Estate Sales rules, the existence of such a Motocross track could be considered a negative *material fact* and therefore, would have to be disclosed to a potential buyer. In researching other communities that are facing, and have faced, essentially the same situation, building a Motocross track in a residential or rural residential area, I have found not a single community that has welcomed this type of commercial facility. When such tracks have been built, it appears that *in every case, the MX (Motocross) facilities have extremely unhappy relationships with local residents and ongoing legal problems with local planning/code enforcement/police departments*.

The government is responsible for protecting the citizens. Any deviation from an ordinance should not damage an existing community; it should benefit the community and enhance the quality of life of the individuals therein. At the very least, granting an exception for the use of property must not create hardships for, endanger the wellbeing of, and violate the rights of others. I strongly believe that the existence of Motocross track in the midst of this quiet, harmonious residential community would prove detrimental, and potentially injurious to the residents of this community and damaging to our quality of life. To allow the Motocross to be built, therefore, would seem an irresponsible decision indeed.

Respectfully,

Rose Sachs, LCSW-C (MD), LSCW (VA)
99 Penick Place
Hardy, VA 24101

Stephen Preston Stone
1 Lancer Lane
Mt Pleasant, South Carolina
29464

To Whom it may Concern,

This letter is in reference to case # SPEC-9-15-14745, applicant Julie L. Phelps. I understand that the applicant has submitted a Special Use Permit which includes Motocross practice / training facility as well as ministry and gospel based education facility.

While I respect Ms. Phelps entrepreneurial spirit in this endeavor, I strongly oppose this request. This is clearly the wrong place for these (already ongoing) activities for a number of reasons.

1. NOISE

My wife and I have personally experienced the disturbing and disruptive noise of the motocross vehicles. It is well documented that exposure to this type of noise is harmful to people and also wildlife. This is obviously an infringement on people who have chosen to live in this beautiful natural area and a danger to wildlife. (The noise level that we have experienced is reminiscent of post hurricane Hugo in South Carolina. There were chainsaws running dawn until dusk every day-incessant disruptive noise. Thankfully, unlike the proposed motocross training facility, the noise after hurricane Hugo was temporary.) We wondered about this noise when we were on our property which is right across the street from the Phelps Farm. We were not aware that there was an ongoing business at that location as is advertised on social media. I do not recall being notified regarding zoning of this property adjacent to me for a business. I am wondering — is this a zoning violation? Are there fines for this type of violation? Should the existing business be penalized and shut down? There is no need for a noise impact assessment — the noise is obvious, extremely loud and very disruptive.

2. FIRE HAZARD

Sparks emitted by internal combustion engines pose a threat of fire. Most states require a US Forest Service approved spark arrestor on these vehicles. They are apparently NOT required at the Phelps Farm facility.

3. ENVIRONMENTAL DEGRADATION

Motocross training facility is subject to soil erosion and compaction. This makes it difficult for rain to permeate the ground which leads to run off issues such as excess sedimentation in waterways. This then leads to clogged streams, fish die off and disruption of habitat. Additionally, there are air quality issues. Motocross 2 stroke engines emit more smoke, carbon monoxide, hydrocarbons and particulate matter than 4 stroke engines. These engines lack emission systems that are in cars. One 2 stroke engine emits as much pollution as several automobiles. This, of course, is in addition to

the automobiles hauling trailers to arrive at the facility.

4. POTENTIAL FOR ENCROACHING ON NEIGHBORING PROPERTIES

There is potential for motocross riders to ride outside of the boundaries of the Phelps farm.

for instance, on internet search revealed the following:

from VITALMX:

"come down to Phelps Farm- it's in Hardy and they have like 800 acres of trails and loops"

from RIDER PLANET

"no permit required" "daily dawn till dusk" "400 acres"

Phelps Farm is 185 acres. No corrections have been made to these easily accessible internet sites.

5. LACK OF RESTRICTIONS AND CERTIFICATIONS

There are minimal restrictions for motocross riders at Phelps Farm. Thankfully, a helmet is required by Virginia State Law. Also riders under 18 yrs old must be accompanied by an adult.

Ms Phelps states under "noise" in the special use permit narrative that there will be "hours of operation". Currently, it is stated on Facebook they they are open for business "7 DAYS A WEEK. SUN UP TO SUN DOWN"

Below is a published list of requirements (or lack thereof)

Spark arrestor- NOT REQUIRED

2 stroke/2cycle engines (less fuel efficient, more polluting, louder- NO RESTRICTION

Max Sound Limit -NO LIMIT

Muffler- NOT REQUIRED

Operator license- NOT REQUIRED

Rider education certification- NOT REQUIRED

Chest protection- NOT REQUIRED

So, it seems that riders can be there sun up until sundown 7 days a week with no precautions taken to reduce noise or pollution. Furthermore, minimal safety restrictions are in place. (only helmet, goggles, boots are required) No license or certification of any type is required. No chest protection.

6. BURDEN ON COMMUNITY RESOURCES

It seems to me that this facility with its lack of restrictions, certification or licensure of riders has potential to burden community resources- particularly EMS, Fire and environmental agencies. If such a facility was allowed to exist, I would think that it would have higher tax burden, certainly not exemption- even if it involves "ministry" and "gospel based education".

As an adjoining property owner, I am vehemently opposed to this special use permit. Furthermore, I would like to see the existing business closed due to lack of zoning. This proposed business is significantly detrimental to the surrounding community. I believe that Franklin County has an obligation NOT to authorize this public nuisance and burden on the community.

Stephen P. Stone
11/04/2015

OHV Acoustics LLC

Alexander Bub

Owner / Chief Engineer

Nov 9 2015

Mr Steve Sandy
Franklin County Planning Commission

Steve, I would like to present the Commission the results from the testing today at the Phelps Farm. We tested 10 motorcycles today and from those results extrapolated how many vehicles could be allowed on the 185 acre property and still remain within Federal Government guidelines.

That number is 230 vehicles at 64.97 dBA Leq. Today's testing was done while raining. The rain makes the atmosphere conduct sound easier than if it were dry out (something like the sound of a motorboat in the air versus with your head under water). So the 230 vehicle number would actually be higher if done under dry conditions. I could only estimate at that number, suffice it to say more that 230 riders could be accommodated under dry atmosphere conditions.

The federal HUD limit for a residential area is 65dBA Leq. I feel comfortable that this property could handle 230 riders and have some headroom under normal weather conditions to stay under the regulatory limits.

Best regards,
Alexander D. Bub

W4802 Knuth Road
Random Lake, WI 53075
262-510-3855
Alex.bub@myexcel.com
www.ohvacoustics.com

Phelps Farm – Hardy, Virginia

Property Line Sound Survey

November 9 2015



OHV Acoustics

Alexander Bub
Owner / Engineer

Consultant: Sound issues for OHV parks, race
tracks, private riding areas.



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Engineering Report – Phelps Farm Acoustic Analysis per Federal HUD Residential Requirements

OHV Acoustics LLC was approached by the land owner to perform a property line sound survey for an off-road recreational area for dirt bikes. An examination resulted in Virginia not having an existing sound ordinance to cover this type of activity. In a case with a lack of state regulations we have resorted to applying the Federal HUD standard, regulation 24CFR Part 51 Subpart B Noise Abatement and Control. This regulation is applicable to all 50 states and has been used by engineers/consultants in lieu of a defined state statute.


A group of 10 vehicles was recruited to represent a motorized sound source. By measuring the acoustic impact of a representative number of vehicles it can then be calculated by adding decibel levels to establish a projected property line sound signature for a larger group. In this case groups of 10 bikes can be added together until the resulting number of vehicles approaches the HUD regulatory level of 65 dBA Leq (time averaged).



By simple logarithmic addition the case can be documented that 230 riders can be accommodated on the property before crossing over the 65 dBA Leq HUD regulatory level. 230 riders were calculated to measure 64.97 dBA Leq.

Three sites were tested during the vehicles riding on the property. These locations were established at the property lines of the three closest residences. A baseline with no motorized was first established to find the background sound signature of these test sites. Recorded were what other sound sources were constituting the sound levels: passing cars, trucks, street motorcycles, trains, aircraft, firearms being used, overhead birds such as passing Geese, etc.

During today's tests we had rain the whole day, which contributed to the baseline noise levels with increased measured levels due to high humidity and resulting easier wave propagation through a denser media (atmosphere). A dryer more normal weather condition could support an increase in maximum rider count but at this time that increase would be only a guess but would be in the order of tens and not hundreds.



All ten bikes were tested individually by the SAE J1287 stationary test procedure, the same test applied by law enforcement officials. For off-road vehicles there is no one established sound level. The J1287 test is used by off-road business owners to weed out those vehicles that are too loud due to poor maintenance of exhaust silencers (internal packing that is worn out and should be replaced) or by leaking exhaust joints/cracks in pipes, etc.

Table 1 shows the stationary sound test results. No bike was deemed unusually loud but the results do show a variation in sound output due to vehicle design, engine size, aftermarket exhaust manufacturer product design, or other variations in vehicle setup.

Table 2 shows the three test site results both for the baseline sound test (no dirt bikes in use) and then the test with ten bikes riding all the trails of the property. The loop around the property took approximately 18 minutes to circumvent, so the vehicles went past the sound meters twice in a test period. The sound tests were 40 minutes each in order to meet the 30 minute test period normally used for an Leq test per HUD recommendations and to allow two complete loops of the property by the riders.

Site 1 mentioned gun/rifle shots heard but the other 2 sites did not hear them. They were assumed to be hunters off the Phelps land. Only this site mentioned hearing an overhead plane.

Site 3 had the highest readings as expected. The main road witnessed the road car and truck traffic and stated that the bikes were heard but were far away. This site highest number was used to calculate the maximum number of riders to be allowed since HUD does not differentiate what causes the sound reading, just that the overall average has to be below 65dBA Leq.

Table 1

Engineering Report – Phelps Farm Acoustic Analysis

Test site results SAE J1287 Stationary test

Vehicle	Model Year	Sound Level dBA
KTM 250 XCW	2014	93.8
Kawasaki 250F	2014	96.3
Yamaha YZ250F	2015	98.0
KTM 250XCW	2013	94.0
KTM 250 XCF	2015	96.7
Yamaha YZ250 (2 stroke)	2013	92.6
Kawasaki KX250	2006	96.4
KTM 300 XCW (2 stroke)	2013	92.4
KTM 350 XCFW	2015	92.6
Honda CR250 (2 stroke)	2002	95.4

Table 2

Engineering Report – Phelps Farm Acoustic Analysis

Test site results Baseline versus with motor vehicles running

Locations:

Test site 1 At the Lily Day Road neighbor's property line

Test site 2 A the second Lily Day Road neighbor's property line

Test site 3 Next to the Phelps Farm entrance road

Test Site	Baseline no cycles	With Cycles in use
Site 1	45.7 dBA Leq	51.2 dBA Leq
Site 2	44.2 dBA Leq	50.8 dBA Leq
Site 3	50.9 dBA Leq	51.4 dBA Leq

Notes:

Site 1 No motor vehicle traffic on the public road during either test

4 gun shots, 10 rifle shots, one plane during the test with bikes running

Site 2 No motor vehicle traffic on the public road during either test

Site 3 22 cars passed by during the baseline test

21 cars and 3 trucks passed by during the test with dirt bikes in use


51.4 dBA highest reading, use for calculating maximum number of riders

4

FRANKLIN COUNTY
Board of Supervisors



EXECUTIVE SUMMARY

<u>AGENDA TITLE:</u> Agricultural Leases at Waid Recreational Area <u>SUBJECT/PROPOSAL/REQUEST</u> Request permission to award leases on agricultural land. <u>STAFF CONTACT(S):</u> Robertson, Whitlow, Chapman, Newbill	<u>AGENDA DATE:</u> <u>ITEM NUMBER:</u> <u>ACTION:</u> <u>CONSENT AGENDA:</u> <u>ACTION:</u> <u>ATTACHMENTS:</u> Project Locations and Sizes <u>REVIEWED BY:</u> 
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BACKGROUND:

Since 2001, the Franklin County Board of Supervisors has contracted with local farmers to lease certain areas of the Waid Recreation Area for agricultural purposes. Generally, these leases have been done on a two-year basis with farmers bidding for the leasing of specific areas. Bidders typically submit information regarding the proposer's name, address and phone, what the land would be used for, lease fees proposed and/or improvements to be made, and any other considerations the proposer wishes to be considered. Leases that were previously approved are set to expire in December 2015.

DISCUSSION

For the current cycle, Franklin County has leased out eleven tracts totaling approximately eighty-four acres of farmable land. The county receives approximately \$2,781 annually from these leases. Staff has been pleased with the utilization of this unused property, and staff encourages the continuing of this program. Last month the Board granted permission for staff to solicit bids for agricultural leases for a period to commence in January 2016 and conclude in December 2018. Advertisements for bids were properly listed and posted accordingly. Bids were received, whereby the highest bidders that were awarded the leases during the last bidding cycle are also the highest bidders this year. If approved, such bidders will be returning to the same tracts.

Below are the field descriptions, acreage and lease rates proposed by the farmers.

(**Upland** represents land away from the water and **bottomland** represents land next to the water.)

<u>Field #</u>	<u>Acreage</u>	<u>Type</u>	<u>Existing Lease Rate</u>	<u>Proposed Lease Rate</u>	<u>Farmer</u>
1,2,3	26.7	Upland	\$28.00/acre = \$747.60	\$30/acre = \$801.00	Donald Bowman
4,6,8	23	Bottom Land	\$48.00/acre = \$1,104.00	\$46/acre = \$1,058.00	Donald Bowman
5	11	Upland	\$40.00/acre = \$440.00	\$40/acre = \$440.00	Oaks Dairy Farm
7	1.8	Bottom Land	\$48.00/acre = \$86.40	*no bids received	n/a
9, 10	16	Upland	\$20.00/acre = \$320.00	\$20/acre = \$320.00	Emery Bowman
11	5.5	Bottom Land	\$40.00/acre = \$220.00	\$40/acre = \$220.00	Emery Bowman

Proposed Yearly Total for Lease Lands \$2,839.90

*Please note that no bid was placed for field #7. Access to this field has become difficult as it requires fording the Pigg River. Because of this, no farming has occurred on this field for the last few seasons and no bid was placed. Parks and Recreation staff will monitor this area to determine if other management practices are needed in the absence of farming.

RECOMMENDATION:

Staff respectfully recommends that the Board of Supervisors award the field leases to the farmers listed above for a period to commence in January 2016 and conclude in December 2018.

PUBLIC NOTICE

In accordance with the provisions of Section 15.2-1800 of the Code of Virginia, as amended, notice is hereby given to all interested parties that the Franklin County Board of Supervisors will hold a public hearing at approximately *6:00 P.M., on Tuesday, December 15, 2015*, in the Board of Supervisor's Meeting Room located in the Franklin County Government Center, 1255 Franklin Street, Suite 104, Rocky Mount, Virginia to consider a lease arrangement for a period of up to two (2) years for agricultural purposes on approximately eighty-four (84) acres of land located at the corner of Six Mile Post Road (Route 640) and Waid Park Road (Route 800) in the Blackwater Magisterial District. This land is adjacent to the premises of Waid Park.

A complete copy of the plat is available in the Finance Office, 1255 Franklin Street, Suite 111, Rocky Mount, Virginia 24151.

All requests for reasonable accommodations due to a disability should be made to Sharon K. Tudor with at least a 48 hour notice.

All interested parties are encouraged to attend.



SHARON K. TUDOR, MMC, CLERK

FRANKLIN COUNTY BOARD OF SUPERVISORS

FRANKLIN NEWS POST

PLEASE PUBLISH IN YOUR FRIDAY, December 4 & 11, 2015 EDITIONS.



EXECUTIVE SUMMARY

AGENDA TITLE: Annual Comprehensive Economic Development Strategy (CEDS)

SUBJECT/PROPOSAL/REQUEST

Approval of 2016-2017 CEDS list for the U.S. Economic Development Administration

STRATEGIC PLAN FOCUS AREA:

Goal # 5 – Economic Development Strategy

Action Strategy:

STAFF CONTACT(S):

Mrs. Robertson, Burnette

AGENDA DATE: 12/15/2015

ITEM NUMBER:

ACTION:

INFORMATION:

CONSENT AGENDA: X

ACTION:

INFORMATION:

ATTACHMENTS: Proposed 2016-2017 Franklin County CEDS list

REVIEWED BY: 

BACKGROUND:

Each year, communities across America, including Franklin County, adopt lists of economic development-related projects for the coming year for submittal to the federal government. While the County does not expect to complete the entire list nor does adoption of the list give final approval by the Board for any project, submitting a wide variety of projects is advantageous to the locality. The Comprehensive Economic Development Strategy (CEDS) is used by the United States Economic Development Administration (USEDA) when reviewing potential grant recipients and USEDAD cannot fund any projects that are not listed on the CEDS. For this reason, communities submit extremely aggressive lists of projects due to the uncertainty of what may happen over the next twelve months. If adopted by the Franklin County Board of Supervisors, the CEDS will be compiled with ones submitted by the other localities in the West Piedmont Planning District and forwarded to the USEDAD.

DISCUSSION:

The proposed list is identical to last year's submittal as to the projects listed, with updates to some of the expected costs for certain projects and changes to some priority numbers to reflect current County thinking. Project priorities are defined by their stage of planning and readiness to move forward. The proposed CEDS list attempts to capture as many known potential projects as possible and categorizes them based on the federal direction.

RECOMMENDATION:

Staff respectfully requests that the Board of Supervisors approve the proposed CEDS list for submission to USEDAD.

COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGY

PRIORITY PROJECTS

April 1, 2016 - March 31, 2017

PROJECT	PRIORITY /TYPE	DESCRIPTION	FUNDING SOURCE	AMOUNT	TOTAL	ENVIRON- MENTAL IMPACT	NO. OF JOBS
Natural Gas Service Extension-- Franklin County	1/I	Complete service extension of Roanoke Gas to Franklin County/Rocky Mount	VTC	\$3,000,000	\$12,500,000	Positive	300+
			USDA-RD	\$3,000,000			
			Local	\$3,000,000			
			Private	\$3,500,000			
Southway Business Park Near Rocky Mount--Franklin County	1/I	Master planning, procurement, and development of new business park near Rocky Mount	VTC	\$3,000,000	\$15,000,000	Positive	900+
			USDA-RD	\$1,800,000			
			DHCD	\$700,000			
			EDA	\$1,500,000			
Franklin County/Rocky Mount Industrial Park--Franklin County/ Town of Rocky Mount	1/I	Extension of industrial access, water and sewer, site improvements, completion of loop access road, and rail spur to serve development of heavy industrial site	Local	\$1,000,000	\$3,394,656	NA	250-300
			Local	\$1,282,156			
			Rail Acc Funds	\$300,000			
			VTC	\$812,500			
Smith Farm Regional Park Site Development--Franklin County	1/I	Develop recreation area at Smith Farm Regional Park facility	Local	\$260,000	\$500,000	---	---
			DCR	\$80,000			
			DGIF	\$80,000			
			AEP	\$80,000			
Ferrum Downtown Improvements-- Franklin County	1/I	Develop sidewalks, railroad pedestrian bridge, "Main Street" scale improvements	DHCD	\$1,387,000	\$2,379,000	Positive	20-30
			VDOT	\$708,000			
			Local	\$284,000			

6

FRANKLIN COUNTY
Board of Supervisors



EXECUTIVE SUMMARY

AGENDA TITLE:

Additional Appropriations Public Hearing

AGENDA DATE:

December 15, 2015

ITEM NUMBER:

SUBJECT/PROPOSAL/REQUEST:

Request of the Board to hold a public hearing at the January Board of Supervisors meeting so that additional appropriations may be requested from the Board.

ACTION:

INFORMATION:

CONSENT AGENDA: YES

ACTION: YES

INFORMATION:

STAFF CONTACT(S):

Messrs. Robertson, Copenhaver

ATTACHMENTS:

REVIEWED BY: PR

BACKGROUND:

State code section 15.2-2507 allows localities to amend their budget up to an amount that does not exceed one percent of the total expenditures shown in the currently adopted budget. The one percent limit amount for Franklin County is \$1,312,217 for fiscal year 2015-16. Total appropriations approved to date including December 2015 are \$1,239,188..

DISCUSSION:

Before additional appropriations can be made, the County must hold a public hearing to allow public input on the appropriations approved for the current fiscal year. After the public hearing, the County will have the ability to appropriate another 1% or approximately \$1.3 million if the Board so chooses. Staff will continue to present all County and School appropriation requests to the Board for their approval.

With the additional appropriations approved to date, the County's adjusted budget is now \$132,460,843.

RECOMMENDATION:

Staff respectfully requests the Board's consideration to advertise the additional appropriations for a public hearing at the January Board of Supervisors meeting.

**PUBLIC NOTICE
FRANKLIN COUNTY, VIRGINIA
A HEARING ON AMENDMENTS TO THE ADOPTED 2015-2016 BUDGET**

in Accordance with Sections 15.2-2507 of the Code of Virginia, as amended, on ***Tuesday, January 19, 2016, at approximately 6:00 P.M.*** or soon thereafter, the Franklin County Board of Supervisors will conduct a public hearing on amending the adopted FY' 2015-2016 County budget in the Board of Supervisors Meeting Room, located in the Franklin County Government Center, 1255 Franklin Street, Suite 104, Rocky Mount, Virginia.

The original FY 2015-2016 budget was adopted in the amount of \$131,221,655. The new approved budget would be \$132,460,843. Since July 1, 2015 the following amounts have been appropriated by the Board. The purpose of this hearing is to amend the FY' 2015-2016 budget in the total amount of \$1,239,188.

Adopted Additional Budgetary Appropriations Since July 1, 2015:	
July 2015	\$30,251
August 2015	\$857,978
September 2015	\$17,604
October 2015	\$221,961
November 2015	\$21,314
December 2015	\$90,080
Total	\$1,239,188

Sharon K. Tudor, MMC, Clerk
Franklin County Board of Supervisors

PUBLISH:



Government Finance Officers Association
203 North LaSalle Street, Suite 2700
Chicago, Illinois 60601-1210
312.977.9700 fax: 312.977.4806

7

November 2, 2015

PRESS RELEASE

For Further Information Contact
Stephen J. Gauthier (312) 977-9700

Chicago--The Government Finance Officers Association of the United States and Canada (GFOA) is pleased to announce that **County of Franklin, Virginia** has received the GFOA's Distinguished Budget Presentation Award for its budget.

The award represents a significant achievement by the entity. It reflects the commitment of the governing body and staff to meeting the highest principles of governmental budgeting. In order to receive the budget award, the entity had to satisfy nationally recognized guidelines for effective budget presentation. These guidelines are designed to assess how well an entity's budget serves as:

- a policy document
- a financial plan
- an operations guide
- a communications device

Budget documents must be rated "proficient" in all four categories, and the fourteen mandatory criteria within those categories, to receive the award.

When a Distinguished Budget Presentation Award is granted to an entity, a Certificate of Recognition for Budget Presentation is also presented to the individual or department designated as being primarily responsible for its having achieved the award. This has been presented to **Jackie E. Wagner, Finance and Budget Analyst**

For budgets beginning in 2013, 1,424 participants received the Award. Award recipients have pioneered efforts to improve the quality of budgeting and provide an excellent example for other governments throughout North America.

The Government Finance Officers Association is a major professional association servicing the needs of more than 18,000 appointed and elected local, state, and provincial-level government officials and other finance practitioners. It provides top quality publications, training programs, services, and products designed to enhance the skills and performance of those responsible for government finance policy and management. The association is headquartered in Chicago, Illinois, with offices in Washington D.C. The GFOA's Distinguished Budget Presentation Awards Program is the only national awards program in governmental budgeting.



EXECUTIVE SUMMARY

AGENDA TITLE: Bedford Rail Stop Planning Contribution

SUBJECT/PROPOSAL/REQUEST

Review of request to provide funds for a planning study of an Amtrak rail stop in the Town of Bedford

STRATEGIC PLAN FOCUS AREA:

Goal # 5 – Economic Development Strategy

Action Strategy:

STAFF CONTACT(S):

Mrs. Robertson, Burnette

AGENDA DATE: 12/15/2015

ITEM NUMBER:

ACTION:

INFORMATION:

CONSENT AGENDA: X

ACTION:

INFORMATION:

ATTACHMENTS:

REVIEWED BY: PR

BACKGROUND:

In October of 2009, Amtrak resumed passenger rail service to the City of Lynchburg at the Kemper Street Station. In January of 2014 an agreement was signed between the Commonwealth of Virginia and Norfolk Southern Corporation to make infrastructure improvements necessary to extend Amtrak passenger rail service from Lynchburg to Roanoke with passenger rail service to return to the City of Roanoke in 2017. Over the last few years, Roanoke has been operating a bus connection to Lynchburg's Kemper Street Station to assist travelers in the Roanoke Valley. The planned expansion of passenger rail service to Roanoke will pass through the Town of Bedford, but current plans do not include a Bedford stop. The Bedford-Franklin Regional Rail Initiative Committee (BFRRI), has been working to make a Bedford stop a reality by educating the public and the Commonwealth on the need and benefits of a Bedford station. In August 2014, the Franklin County Board of Supervisors, recognizing the benefit such a station would bring to the Smith Mountain Lake area, approved a resolution of support for the project.

DISCUSSION:

The BFRRI Committee is currently working on a study to present to the Commonwealth in hopes of obtaining approval for the Bedford rail stop. In a meeting with the Department of Rail and Public Transportation (DRPT), BFRRI members were told that a third-party study of the ridership, cost-benefit analysis, and other data would be required prior to any decision by the state. The BFRRI has gotten a price from an experienced consultant to do this required study. The cost is estimated at \$75,000 and must be completed by the end of February 2016. The Town of Bedford has pledged \$25,000 to the effort with the Bedford County Chamber of Commerce and the Smith Mountain Lake Chamber of Commerce promising another \$1,000 each. The County of Bedford is being asked for approximately \$40,000. Franklin County has received a request from the BFRRI to become a contributing partner and provide \$10,000 in

funding for the planning effort. This is in line with the County's percentage of total residents within the travel shed. According to preliminary data, 51,937 people currently live closer to the proposed Bedford stop than to either the Roanoke or Lynchburg train stations. Of those 51,937 residents, 6,355 live in Franklin County and would be best served by the proposed Bedford stop. This represents approximately 12% of the total travel shed population and generally matches the \$10,000 planning contribution request, 13% of the total \$75,000 study cost.


RECOMMENDATION:

Staff respectfully requests that the Board of Supervisors consider making a \$10,000 contribution to the planning study aimed at bringing an Amtrak train stop to the Town of Bedford.

FRANKLIN COUNTY
Board of Supervisors



EXECUTIVE SUMMARY

AGENDA TITLE: Public, Educational, and Government (PEG) Access Performance Agreement	AGENDA DATE: December 15, 2015	ITEM NUMBER:
SUBJECT/PROPOSAL/REQUEST PEG access performance agreement/approve agreement with Friends of Cable 12.	ACTION:	INFORMATION:
STRATEGIC PLAN FOCUS AREA: <u>Goal #</u> <u>Action Strategy:</u>	CONSENT AGENDA: Yes ACTION:	INFORMATION:
STAFF CONTACT(S): Messrs. Robertson, Whitlow, Thomas, Copenhaver, Torres	ATTACHMENTS: PEG Performance Agreement	
	REVIEWED BY: 	

BACKGROUND: Section 611 of the Communications Act, allows local franchising authorities to require cable operators to set aside channels for public, educational, or governmental (“PEG”) use. Cable Channel 12 is the local access channel for Franklin County.

DISCUSSION: As part of the existing cable franchise agreement between Franklin County and Shenandoah Telecommunications Company “Shentel” signed October 30, 2014, Shentel assesses a \$0.30 PEG Capital fee per subscriber each month beginning January 2015 for support of Channel 12. The PEG Capital fees rendered in 2015 are \$4,029 (2015Q1), \$4,223.10 (2015Q2) and \$4,176.30 (2015Q3) resulting in a total of \$12,428.40 thus far.

A PEG access performance agreement between Franklin County and Friends of Cable 12, Inc. has been created and is included with this summary for your review. The highlights of the agreement include the following:

- PEG funding will be allocated to Cable 12 served by Shentel for the purchase, maintenance and operations of equipment, and scheduling of PEG access cable casting.
- Cable 12 has established nonprofit status under IRS Section 501(c)(3), and as such can receive PEG funding.
- All funding will be through Friends of Cable 12, Inc.
- PEG funds shall not be used for Cable 12 staff salaries or compensation.
- Franklin County retains ownership of all equipment purchased through PEG funds.
- Franklin County’s funding obligations to Cable 12 are contingent upon payments to the County in accordance with the franchise agreement with Shentel.
- Cable 12 shall provide public access programming, produce/broadcast educational and governmental access programming, and community television programming.
- Cable 12 shall record and cablecast coverage for Rise N’ Shine, government hosted and sponsored community events such as 4th of July Independence Day Festival, Pigg River Ramble, Rocky Mount Christmas Parade, and Come Home to a Franklin County Christmas.

RECOMMENDATION: Staff respectfully recommends that the Board of Supervisors approve the PEG Access Performance Agreement with Friends of Cable 12, Inc. and authorizes the County Administrator to sign the agreement on behalf of Franklin County.

**PUBLIC, EDUCATIONAL, AND GOVERNMENT (PEG) ACCESS PERFORMANCE AGREEMENT
BETWEEN FRANKLIN COUNTY, VIRGINIA AND FRIENDS OF CABLE 12**

THIS AGREEMENT is made and entered into this ____ day of _____, 20__, by and between FRANKLIN COUNTY, VIRGINIA (The "County"), a County of the Commonwealth of Virginia, and FRIENDS OF CABLE 12, INC. ("Cable 12"), a non-profit corporation duly established under the laws of the Commonwealth of Virginia.

I. SCOPE OF SERVICES

Cable 12 shall manage funds designated for PEG Access television; schedule PEG Access cable casting; purchase, maintain, and operate PEG Access equipment and facilities; and be responsible for ensuring an acceptable level of technical quality of all programs cablecast on its system, pursuant to applicable laws, rules, and regulations, including, but not limited to FCC regulations.

In exchange for the funding provided by the County to Cable 12, Cable 12 shall provide the following services:

1. **Public Access Programming:** Cable 12 shall provide for public access programming and distribution in compliance with all applicable state and federal statutes and regulations. The components of Public Access Programming shall include the following:
 - a. Provide as needed assistance to County residents for the production of specific programs.
 - b. Access to equipment and facilities needed to produce such programs on a non-discriminatory basis to all members of the community for non-commercial programming purposes, whether individuals, groups, or organizations, on a first-come, first-served non-discriminatory basis.
 - c. Access to time slots on channels provided for cable casting of programs
 - d. Maintenance of the program schedule
 - e. Maintenance of equipment needed to produce such programs
 - f. Promotion of programs, and the use and benefit of the public access channel and any access center to cable subscribers, public access users, and the general public.
 - g. Oversight of facilities
2. **Education Access Programming:** Cable 12 shall produce Educational Access programming pursuant to policies and guidelines mutually agreed upon by Cable 12 and Franklin County Public Schools, and assume such other responsibilities related to this production as Cable 12 and the Superintendent of Schools may mutually agree upon. Other educational programming shall be cablecast by Cable 12 after priority is given to programming related to Franklin County Public Schools. The components of Educational Access Programming shall include the following:
 - a. Produce and broadcast programs about the activities and events of Franklin County Public Schools including, but not limited to, scholastic affairs, sports, performing arts, sciences, academic competitions, PTO meetings and community education.
 - b. Broadcast student produced programs.

- c. Produce and broadcast programs activities of other education institutions in Franklin County.
3. **Governmental Access Programming:** Cable 12 shall produce Governmental Access programming in consultation with the County Administrator, or his designee, and assume such other responsibilities related to this production as Cable 12 and the County mutually agree upon.

Cable 12 shall record and cablecast coverage of the following:

 - a. Community television programming including, but not limited to, Rise N' Shine.
 - b. Government hosted and sponsored community events including, but not limited to, 4th of July Independence Day Festival, Pigg River Ramble, Rocky Mount Christmas Parade, and Come Home to a Franklin County Christmas.
 - c. Government meetings requested of Cable 12 by the County. Requests of such meetings shall be made by the County Administrator, or his designee, at a reasonable time in advance of the meeting to allow Cable 12 time to arrange for allocation of time in staff schedules and equipment, if portable field equipment is needed. Cable 12 shall make reasonable efforts to accommodate such request.
4. **Bulletin Board:** Cable 12 shall provide a "bulletin board" on access channels for the purposes of announcing programming and cable television access services, making public service announcements and allowing the County departments or schools to make certain announcements, or for such other purposes as are reasonably necessary or appropriate. Cable 12 shall take care to ensure that the announcements on the bulletin board are updated regularly and appropriately so that it functions efficiently and that the information provided to the public is accurate and timely and adheres to applicable federal and state laws and regulations.
5. **Programming Log:** Cable 12 shall maintain a log of all programming cablecast on the PEG channels, and a record of PEG producers. Logs shall be available for public inspection and retained by Cable 12 for a minimum of three years.

II. TERM OF AGREEMENT

1. **Effective Date.** This agreement shall become effective and be in full force for a term (the "Term") commencing on _____, 20____.
2. **Term.** This agreement shall be in effect for one (1) year from the effective date of the agreement noted herein. The agreement shall automatically renew annually for one (1) year periods, unless thirty (30) days notice of non-renewal is provided by either party in writing.

III. TERMINATION

1. **Termination for Convenience.** This agreement may terminate at any time by either party for convenience and without cause at any time following a thirty (30) day notice period by the party requesting in writing such termination.
2. **Termination for Default.** The County may terminate this Agreement for default if Cable 12 fails to perform services in the manner called for in this Agreement, or if Cable 12 fails to comply with any other material provisions of this Agreement. The County may terminate this

Agreement in whole or in part, for default if, within thirty (30) days (or such longer date as the County may specify in its sole discretion) after the date of the County's written notice to Cable 12, the failure of the performance of Cable 12 has not been completely cured or Cable 12 has not made reasonable progress, as determined by the County in its sole discretion, to cure the failure. Such notice shall set forth the manner in which Cable 12 is in default.

IV. ASSET DISTRIBUTION UPON DISSOLUTION, TERMINATION OR EXPIRATION

1. Upon dissolution of Cable 12 or termination of this Agreement, Cable 12 shall grant to the County, at no cost to the County, ownership of any equipment purchased with funds provided by the County under this Agreement pursuant to Section VIII.5.
2. Upon dissolution of Cable 12, termination or expiration of this Agreement, any unused PEG funding received under this Agreement must be returned to the County no later than sixty (60) days after the date of either party's written notice of termination, expiration, or effective date of dissolution of Cable 12.

V. SUCCESSORS AND ASSIGNS.

The County and Cable 12 each bind itself, its partners, successors, assigns, and legal representatives to the other party in respect to all covenants, obligations, and responsibilities contained under this Agreement.

Cable 12 shall provide the County with ten (10) days notice, in the manner specified for notices pursuant to Section XIV of this Agreement, prior to the occurrence of any change in: (i) Cable 12's Board of Directors' or Executive Director; (ii) Cable 12's corporate structure including but not limited to reorganization, merger or acquisition; or (iii) any Board of Directors' resolution affecting performance of this Agreement.

VI. DISBURSEMENT OF PEG FEES

1. In consideration of full and satisfactory performance of services under this Agreement, the County shall make payments to Cable 12 on a quarterly basis from PEG Capital fees collected by Shenandoah Telecommunications Company ("Shentel"), subject to the limitations and provisions set forth in this Section.
2. **Disbursement Procedure.** Cable 12 shall submit to the County, in the manner specified for notices pursuant to Section XIV of this Agreement, a document indicating the amount of funding being requested, such document will include the cost and purpose to which the funds will be used.
3. **Method of Payment.** Within thirty (30) days following the effective date of this Agreement, and quarterly thereafter, the County will pay Cable 12 for funds received from Shentel pursuant to the amended Franchise Agreement attached hereto as Exhibit A. The County shall make all disbursements by check, sent via USPS First-Class Mail, unless the County otherwise agrees in writing, in its sole discretion.
4. **Rollover of Funds.** If Cable 12 has unexpended PEG funds at the end of any term, it shall notify the County in writing within ten (10) days after the renewal of this Agreement the amount of

unexpended PEG funds and request rollover of those funds. The County shall approve or deny the request, in its sole discretion.

5. **Limit of Funding Liability.** The parties agree that the County's funding obligations to Cable 12 are contingent upon payments to the County in accordance with the Franchise Agreement with Shentel. If the PEG Capital fees are not received from Shentel, or are reduced, the County Administrator, or his designee, shall notify Cable 12 in writing within ten (10) working days. The County may then, at its option, either reduce the amount of its total funding obligation under this Agreement, or terminate this Agreement. In the event that PEG Capital fees are not received by the County, or are reduced, the County shall not be liable to Cable 12 for any further payments.

VII. EXPENDITURE OF FUNDS

Cable 12 shall spend funds received from the County solely for the purposes and services set forth in this Agreement. Cable 12 acknowledges that funds received from the County pursuant to this Agreement must be spent only on capital items pursuant to the amended Franchise Agreement (Exhibit A), and for the maintenance and operation of PEG access equipment and facilities. PEG funds shall not be used for Cable 12 staff salaries or compensation.

VIII. EQUIPMENT

1. **Title and Liens.** Subject to Section VIII.4, during the term of this Agreement, title to all items of hardware, software and related maintenance or service agreements purchased by Cable 12 with funds provided by the County under this Agreement or otherwise conveyed to Cable 12 by prior public access channel operators ("Equipment") shall be held by Cable 12. At all times during the term of this Agreement, Cable 12 shall keep the Equipment and all parts thereof free of any and all liens. The County shall not have any right, title or interest in the Equipment except as expressly set forth herein.
2. **Inventory.** Cable 12 shall, at all times, maintain a complete and current inventory of Equipment purchased with funds provided by the County under this Agreement, which shall be made available to the County upon request. Cable 12 shall furnish to the County a current Equipment list (including description of equipment, date of purchase or acquisition, purchase price, quantity, serial number, statement of condition, anticipated life span, and warranty information) within 60 days after the end of each contract year.
3. **Maintenance.** Cable 12 shall, at all times during the term of this Agreement, maintain, preserve and keep all the Equipment, and every part thereof, in good operating order, repair and condition for the full period of its useful life, and shall from time to time make or cause to be made all necessary and proper repairs, including replacement of worn or damaged parts or components. If Cable 12 determines the Equipment or other property cannot be repaired, Cable 12 shall obtain written approval from the County prior to disposing of the Equipment or other property.
4. **Sale and Disposal.** No Equipment shall be sold, otherwise transferred, or discarded without the prior written approval of the County. Cable 12 shall report any theft, loss or destruction of Equipment to the County.

5. **Return.** Upon expiration or termination of this Agreement, Cable 12 shall convey possession of and title to all the Equipment to the County in the condition in which the Equipment is required to be maintained according to this Agreement, reasonable wear and tear excepted, or, if requested by the County, to an entity designated by the County as successor to Cable 12.

IX. INSURANCE

1. **Maintenance of Insurance.** Throughout the Term, Cable 12 shall maintain, at its expense, the following insurance coverage in a form consistent with the requirements of this Section:
 - a. Insurance against loss of liability in connection with bodily injury, death, property damage or destruction, occurring from the operations of Cable 12 or its agents, contractors, employees, officers or volunteers. The limits for such coverage shall be not less than one million dollars (\$1,000,000) for each occurrence and \$2,000,000 aggregate.
 - b. Property insurance with replacement cost coverage on all Equipment and facilities including fixtures, funded in whole or in part under this Agreement. Insurance shall, at a minimum, provide coverage against loss or damage beyond the user's control, theft, fire or natural catastrophe.
 - c. Automobile liability insurance with a combined single limit, or the equivalent, of not less than one million dollars (\$1,000,000) each accident for bodily injury and property damage, including coverage for owned, hired or non-owned vehicles.
 - d. Cablecaster's liability insurance to cover the content of productions which are cablecast on the access channel in, at minimum, the following areas: libel and slander; copyright or trademark infringement; infliction of emotional distress, invasion of privacy; plagiarism; and misuse of musical or literal materials.
 - e. Cable 12 shall be considered in default of this Agreement if any of the required insurance coverage's expires, lapses or is otherwise not valid.
2. **County as Co-Insured or Additional Insured.** The County of Franklin, its directors, officers, directors, agents, and employees shall be named as a co-insured or additional insured on all aforementioned insurance policies. All insurance certificates shall provide that the policies shall not be cancelled without at least thirty (30) days written notice to the County.
3. **Notification of Coverage.** Cable 12 shall furnish to the County certificates of insurance naming the County as additional insured within ten (10) days of the effective date of this Agreement, and thereafter within ten (10) days prior to the expiration of any such policies.

X. COPYRIGHT CLEARANCE

Before cablecasting of any program material, Cable 12 shall require all users to agree in writing that they shall make all appropriate arrangements to obtain all rights to all material cablecast and clearances from broadcast stations, networks, sponsors, music licensing organizations' representatives, and without limitation from the foregoing, any and all other persons as may be necessary to transmit its or their material over the PEG access channels. Cable 12 shall maintain for the County's inspection, upon reasonable notice by the County and for the term of the applicable statute of limitations, copies of all such user agreements.

XI. INDEMNIFICATION

1. Cable 12 agrees to indemnify, and hold harmless the County, its directors, officers, agents, and employees from and against any and all claims, suits, actions, causes of action, losses, damage, or liabilities of any kind, nature or description, including, payment of litigation costs and attorney's fees, brought by any person or persons for or on account of any loss, damage or injury to person, property or any other interest, tangible or intangible, sustained by or accruing to any person or persons, howsoever the same may be caused, directly or indirectly arising or resulting from any alleged acts or omission of Cable 12, its agents, contractors, employees, officers or volunteers arising out of or in connection with Cable 12's operations to be performed under this Agreement.
2. Cable 12 shall indemnify and hold harmless the County, its directors, officers, agents, and employees from and against any and all claims or other injury including, without limitations, payment of litigation costs and attorney's fees, arising from or in connection with claims or loss or damage to person or property arising out of the failure to comply with any applicable laws, rules, regulations or other requirements of local, state or federal authorities or claims of libel, slander, invasions of privacy, or infringement of common law or statutory copyright, for breach of contract or other injury or damage in law or at equity which result, directly or indirectly, from Cable 12's use of the public access channel.

XII. ENTIRE AGREEMENT

This instrument contains all the agreements made between the parties hereto with respect to the subject matter hereof and may not be modified in any other manner than by an instrument in writing executed by the parties or their respective successors in interest.

XIII. SEVERABILITY

If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

XIV. NOTICE

Any notice or other communication given or made pursuant to this Agreement, shall be in writing and shall be deemed given if: (i) delivered personally or by courier; (ii) sent by overnight express delivery; or (iii) mailed by registered or certified mail (return receipt requested), postage prepaid, to a party at its respective address set forth below (or at such other address as shall be specified by the party by like notice given to the other party).

If to Cable 12: Friends of Cable 12, Inc.
 300 Webster Road
 Glade Hill, Virginia 24092
 Attention: _____

If to the County: Franklin County, Virginia
 1255 Franklin Street, Suite 112
 Rocky Mount, Virginia 24151
 Attention: County Administrator

[SIGNATURE PAGE TO FOLLOW]

That for and in consideration of the mutual covenants and promises between the parties hereto, it is hereby agreed:

FRANKLIN COUNTY, VIRGINIA

(SEAL)

Attest:

Print Name: _____

Title: _____

By: _____

Print Name: **W. Brent Robertson**

Title: **County Administrator**

Date: _____

FRIENDS OF CABLE 12, INC.:

(SEAL)

Attest:

Print Name: _____

Title: _____

By: _____

Print Name: _____

Title: _____

Date: _____

APPROVED AS TO FORM:

By: _____ Date: _____
County Attorney – (B. James Jefferson)

EXHIBIT A

Amended Franchise Agreement



"EXHIBIT A"

October 30, 2014

Certified Mail-Return Receipt Requested

Mr. Richard Huff, II
County Administrator, Franklin County
1255 Franklin Street, Suite 112
Rocky Mount, VA 24151

RE: PEG Capital Fee of \$0.30 for Channel 12

Dear Mr. Huff:

As the County has requested, and as permitted under the existing franchise agreement between the County and Shentel, Shentel will assess a \$0.30 PEG Capital fee for Channel 12 to purchase new video equipment. For Franklin County residents, the PEG Capital Fee will appear on Shentel's customer bills in January, and will continue until Shentel is notified by the County. Shentel will collect the PEG Capital fees, and remit a check to Franklin County quarterly.

In the interim if you have any questions, please don't hesitate to contact me. We look forward to working together and to continue to serve the residents of Franklin County.

Sincerely,



Chris Kyle
Vice President

cc: Mr. Steve Thomas

AMENDMENT TO
CABLE TELEVISION SYSTEM FRANCHISE AGREEMENT

THIS AMENDMENT TO CALBE TELEVISION SYSTEM FRANCHISE AGREEMENT (the "Amendment") is made as of November 18, 2014 between the County of Franklin, Virginia ("County") and Shenandoah Cable Television, LLC ("Franchisee").

WHEREAS, County and Interlink Communications Partners, LLC doing business as Charter Communications entered into that Cable Television System Franchise Agreement dated October 1, 2002 (the "Franchise Agreement");

WHEREAS, the Franchise Agreement was subsequently transferred to Cebridge Acquisition, LLC d/b/a Suddenlink Communications ("Suddenlink"); and

WHEREAS, by Resolution No. 10-07-2007 the County approved the assignment of the Franchise Agreement by Suddenlink to Jet Broadband VA, LLC ("JBB");

WHEREAS, by letter dated May 25, 2007 JBB agreed to certain additional terms with respect to the Franchise Agreement (the "JBB Transfer Letter");

WHEREAS, by letter dated June 2, 2010, Shentel Cable Company, predecessor in interest to Franchisee, agreed to honor the requirements of the JBB Transfer Letter;

WHEREAS, by Resolution No. 20-06-2010 the County approved the assignment of the Franchise Agreement to Shentel Cable Company, predecessor in interest to Franchisee;

WHEREAS, pursuant to Section 2.1 of the Franchise Agreement, the term of the Franchise Agreement expired on September 30, 2014 and

WHEREAS, County and Franchisee now wish to further extend the term of the Franchise Agreement and to make certain additional changes to the Franchise Agreement;

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises and agreements contained in this Amendment, the parties hereby agree as follows:

1. Franchisee. The term "Franchisee" as used in the Franchise Agreement shall from and after the date hereof mean Shenandoah Cable Television, LLC.

2. Franchise Term. Section 2.1 of the Franchise Agreement is hereby amended to read in its entirety as follows:

2.1 Franchise Term. There is hereby granted by the County of Franklin to Franchisee, its successors and assigns, the non-exclusive right, privilege and Franchise to construct, operate, maintain and upgrade a Cable System within the franchise area, as herein defined, for a term deemed to have commenced on October 1, 2014 and ending on September 30, 2029.

3. Build-Out Requirement. Section 5.1 of the Franchise Agreement is hereby amended to read in its entirety as follows:

5.1 Technical Operations and Line Extensions – The Cable System as contemplated herein shall be constructed, installed, operated and maintained in accordance with accepted industry standards and will meet all applicable technical and operating standards of the Federal Communications Commission including but not limited to Subpart K (Technical Standards) and Subpart H (General Operating Requirements) as they now exist or may hereafter be amended. Franchisee will extend its Cable System, after the initial rebuild, to any future developments, government offices located within commercial buildings, and multifamily dwellings of annexed areas upon request within six (6) months of the date the development of such areas reaches the density requirement of at least twenty-eight (28) occupied dwelling units per cable mile and provided that the residence or other building for which service is requested is within two hundred feet (200') of Franchisee's activated feeder cable. Franchisee shall have the right to petition the County for relief should an extension create an economic hardship. The number of miles will be calculated starting at the closest feeder point of the activated Cable System where the extension must be connected and will continue until reaching two hundred feet (200') of the dwelling unit.

4. Support of Channel 12. Franchisee agrees to continue to support the local access channel (currently Channel 12) throughout the term of this Agreement with the same level of service as is currently provided.

5. JBB Transfer Letter. The terms and provisions of the JBB Transfer Letter are superseded in their entirety by this Amendment, and the JBB Transfer Letter shall be deemed null and void and of no further force and effect upon the execution of this Amendment.

6. Franchise Agreement. Except as specifically amended by this Amendment, the Franchise Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, each of the parties has caused this Amendment to be duly executed on its behalf as of the date first hereinabove set forth.

SHENANDOAH CABLE TELEVISION, LLC

By: Chris Kyle
Name: CHRIS KYLE
Title: Vice President

Attest:

Connie Stanley

COUNTY OF FRANKLIN, VIRGINIA

By: Richard E. Huff II

FRANKLIN COUNTY
Board of Supervisors



EXECUTIVE SUMMARY

<p><u>AGENDA TITLE:</u> Resolution authorizing staff to file as an “Intervener” with the Federal Energy Regulatory Commission in the Mountain Valley Pipeline project proceedings</p> <p><u>SUBJECT/PROPOSAL/REQUEST:</u> Mountain Valley Pipeline motion to Intervene</p> <p><u>STRATEGIC PLAN FOCUS AREA:</u></p> <p><u>STAFF CONTACT(S):</u> Robertson, Whitlow, Sandy</p>	<p><u>AGENDA DATE:</u> December 15, 2015</p> <p><u>ITEM NUMBER:</u></p> <p><u>ACTION:</u> Yes <u>INFORMATION:</u></p> <p><u>CONSENT AGENDA:</u> <u>ACTION:</u> <u>INFORMATION:</u></p> <p><u>ATTACHMENTS:</u> Yes</p> <p><u>REVIEWED BY:</u> <i>PPR</i></p>
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BACKGROUND:

On October 23, 2015, Mountain Valley Pipeline LLC (MVP) made its formal filing with the Federal Energy Regulatory Commission (FERC) seeking a certificate of public convenience and necessity to operate and construct the Mountain Valley Pipeline project. This filing indicated MVP’s route for the project which included 37 miles of pipeline within Franklin County.

On November 5, 2015, the FERC issued its “Notice of Applications” for the MVP project. This notice has two key provisions that are of interest to Franklin County. First, it indicates that within 90 days FERC will either complete its Environmental Assessment (EA) or issue a schedule for completion of the EA. Second, the notice establishes November 27, 2015 as the comment date which is the deadline for a timely filing as an Intervener. Staff has spoken to the FERC Project manager concerning the deadline and was assured that a late intervention by the County could be submitted with cause.

It is important for Franklin County to consider both the potential benefits and costs of filing a Motion to Intervene in FERC’s proceedings relative to the MVP project. Under Federal regulation, an Intervener is a designated party to the FERC proceedings who has specific concerns about impacts related to the project. Intervener is a legal status designated by FERC after a timely request that allows the Intervener to request a rehearing of FERC decisions and / or seek relief in Federal Court. Intervener status does not indicate support or opposition to the project.

DISCUSSION:

An Intervener has legal rights to challenge FERC decision making both administratively and in the courts that a non-Intervener does not have. Due to these rights, an Intervener may also have the ability to participate in negotiations and / or mediation that a non-Intervener would not be able to access. Interveners are required to share filings and information with one another. Having Intervener status may afford the County information that the County not otherwise have reviewed.

Once a party is designated as an Intervener, FERC staff can no longer interact with them on an informal basis. This would prevent staff from contacting the FERC project manager and asking questions due to ex-parte communication rules. Interveners are also required to send documents to all other Interveners. This can be accomplished electronically; however some Interveners will likely be served by mail only. The extent of these mailing costs will not be known until a list of all Interveners has been created by FERC. These costs are not likely to be consequential unless the County chooses to submit many comments or documents.

If a decision to become an Intervener is made, the County could incur costs both internal and external for staff time and legal fees. Roanoke County has secured external legal counsel with a firm who specializes in FERC proceedings. This firm is the Water and Power Law Group PC. Franklin County recently consulted with this firm during the lake relicensing with FERC. Costs will be based on the County's ultimate strategy as directed by the Board of Supervisors.

Being an Intervener does not necessarily indicate that the Intervener is opposed to the overall project. However, being an Intervener does mean that the Intervener has concerns regarding specific elements of the project or the potential effects of specific elements of the project. This is consistent with the recent resolution passed concerning erosion and sediment control and stormwater management during construction of the pipeline.

Seeking Intervener status does not mean that the County has made a decision to challenge any particular FERC decisions or that the County will ultimately litigate. These decisions will be made based on the ongoing review of the MVP project filing, any changes to the project, and FERC's future decisions. Roanoke County, Montgomery County and Giles County have all filed motions to intervene as well as several businesses, interest groups and individual citizens.

RECOMMENDATION:

Staff recommends seeking Intervener status to preserve our legal rights / options and to reiterate our concerns regarding the project during the FERC process. A draft resolution authorizing the County to file a motion with FERC seeking intervener status has been attached for your consideration and adoption.

**RESOLUTION AUTHORIZING THE COUNTY OF FRANKLIN, VIRGINIA
TO FILE A MOTION WITH FERC SEEKING INTERVENER STATUS IN
THE MOUNTAIN VALLEY PIPELINE, LLC APPLICATION
FOR PUBLIC CONVENIENCE AND NECESSITY DOCKET NO. CP16-10-000**

WHEREAS, Mountain Valley Pipeline, LLC ("Mountain Valley Pipeline") desires to construct, own and operate a three hundred (300) mile long 42 inch diameter natural gas transmission pipeline between Wetzel, West Virginia and Pittsylvania County, Virginia; and

WHEREAS, Mountain Valley Pipeline previously initiated the Federal regulatory approval process to construct, own and operate the pipeline by requesting use of the Federal Energy Regulatory Commission ("FERC") pre-filing review process with the pre-filing of Docket No. PF-15-3-000; and

WHEREAS, On October 23, 2015, Mountain Valley Pipeline filed an application with FERC seeking a certificate of public convenience and necessity authorizing Mountain Valley Pipeline to construct, own and operate a three hundred (300) mile long 42 inch diameter natural gas pipeline in West Virginia and Virginia with an assigned docket number of CP16-10-000 ("FERC Application"); and

WHEREAS, In its application to FERC, Mountain Valley Pipeline's proposed route traverses through Franklin County starting at the Roanoke County at the Blue Ridge Parkway heading southeast, crossing Cahas Mount and passing to the north of the Town of Rocky Mount until it reaches the communities of Glade Hill and Union Hall where it continues southeast eventually into Pittsylvania County; and

WHEREAS, On November 5, 2015, FERC issued a Notice of Application notifying the Public of Mountain Valley Pipeline's proposed natural gas transmission pipeline project, its pending FERC application and advising the public that it may obtain legal status by becoming a party to the proceedings by filing with FERC a Motion to Intervene; and

WHEREAS, The benefits from achieving intervenor status is that the County would receive all of Mountain Valley Pipeline's filings and other FERC documents related to the case and all materials filed by other interested parties who are likewise intervenors enabling the County to remain informed and continue to be an advocate for its citizens with FERC; and

WHEREAS, By having access to the FERC filings the County will be able to continue to monitor in particular the aspects of the Mountain Valley Pipeline project which specifically impact the County of Franklin and its citizens and continue to be a conduit of information for its citizens by staying involved in the FERC proceedings; and

WHEREAS, The Board of Supervisors wishes to continue to participate in the FERC process and be a resource for its citizens by seeking intervenor status before FERC.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Franklin, Virginia that the Board of Supervisors hereby authorizes and directs the County Administrator, in consultation with the County Attorney, to file a motion with FERC to intervene in the Mountain Valley Pipeline Application for Public Convenience and Necessity, Docket No. CP-16-10-000.


ATTEST: _____
Sharon K. Tudor
Clerk
Franklin County Board of Supervisors

11

FRANKLIN COUNTY
Board of Supervisors



EXECUTIVE SUMMARY

<u>AGENDA TITLE:</u> Official 911 & Mailing Address Approval Form	<u>AGENDA DATE:</u> December 15, 2015	<u>ITEM NUMBER:</u>
<u>SUBJECT/PROPOSAL/REQUEST</u> Approve Official 911 & Mailing Address Form	<u>ACTION:</u>	<u>INFORMATION:</u>
<u>STRATEGIC PLAN FOCUS AREA:</u> <u>Goal #</u> <u>Action Strategy:</u>	<u>CONSENT AGENDA:</u> Yes <u>ACTION:</u>	<u>INFORMATION:</u>
<u>STAFF CONTACT(S):</u> Messrs. Robertson, Thomas	<u>ATTACHMENTS:</u> Official 911 & Mailing Address Approval Form and Example Form.	
	<u>REVIEWED BY:</u> 	

BACKGROUND: Recent conversation with Virginia 911 organization requires that the County have an official document. No formal document has been approved or produces until now.

DISCUSSION: Notifications of official 911 addressing need a form approved by the Board of Supervisors.

RECOMMENDATION: Staff respectfully requests the Board of Supervisors to approve the form.

GIS & Addressing



Official 911 & Mailing Address

1255 FRANKLIN STREET

For: FRANKLIN COUNTY VIRGINIA

Date: 12/10/2015
Address Entered: 06/13/2006
Property Owners: FRANKLIN COUNTY VIRGINIA
Parcel Pin Number: 2110000101
Subdivision/Legal Description: FURNACE MARKETPLACE
Lot Number/ Map Number: Lot 1
Permit Number:
Description: Commercial

This document is to verify that the property located on Franklin St. has been assigned the new address:
**1255 Franklin St
Rocky Mount, VA. 24151**

Please post the number no smaller than 3" reflective numbers clearly on your mail box and house for mail delivery and Emergency 911 purposes.

Lake Properties:

Please post the same 3" reflective number on Boat houses.

Lake houses that do not have Boat houses; please post your new house number on the "Lake" side of the house for 911 purposes from the Lake

Maggie Birch, GIS Coordinator, Franklin County GIS Department

Corey Lunsford

Franklin County GIS
1255 Franklin St. Suite 108
Rocky Mount, VA. 24151
540-352-5127

maggie.birch@franklincountyva.gov

Corey.Lunsford@franklincountyva.gov

GIS & Addressing



Franklin County
A Natural Setting for Opportunity

Official 911 & Mailing Address

Address: _____

For: _____

Date:
Address Entered:
Property Owners:
Parcel Pin Number:
Subdivision/Legal Description:
Lot Number/ Map Number:
Permit Number:
Description:

This document is to verify that the property located on _____ has been assigned the new address:

_____, VA. _____

Please post the number no smaller than 3" reflective numbers clearly on your mail box and house for mail delivery and Emergency 911 purposes.

Lake Properties:

Please post the same 3" reflective number on Boat houses.

Lake houses that do not have Boat houses; please post your new house number on the "Lake" side of the house for 911 purposes from the Lake

Maggie Birch, GIS Coordinator, Franklin County GIS Department

maggie.birch@franklincountyva.gov

Corey.Lunsford@franklincountyva.gov



EXECUTIVE SUMMARY

AGENDA TITLE: Transient Lodging Tax: 2016 General Assembly

SUBJECT/PROPOSAL/REQUEST

Presentation by Convention and Visitors Bureau on Regional Transient Lodging Tax

STRATEGIC PLAN FOCUS AREA:

Goal # 5 – Economic Development Strategy

Action Strategy:

STAFF CONTACT(S):

Messrs. Robertson, Burnette

AGENDA DATE: 12/15/2015

ITEM NUMBER:

ACTION:

INFORMATION:

CONSENT AGENDA:

ACTION:

INFORMATION:

ATTACHMENTS:

REVIEWED BY: *BR*

BACKGROUND:

Landon Howard, President of the Roanoke Valley Convention and Visitors Bureau, will make a brief presentation regarding efforts to enhance funding for regional tourism marketing. Specifically, Transient Lodging (Hotel/Motel) Tax will be discussed regarding opportunities to partner with other local governments to prepare for future investments in tourism.